

## Union Calendar No. 416

96TH CONGRESS  
2D SESSION**H. R. 3990**

[Report No. 96-588, Parts I, II, and III]

To amend certain provisions of title XVIII of the Social Security Act with respect to the medicare program established by such title, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

MAY 8, 1979

Mr. RANGEL (for himself, Mr. CORMAN, Mr. VANIK, and Mr. FORD of Tennessee) introduced the following bill; which was referred jointly to the Committees on Ways and Means and Interstate and Foreign Commerce

JULY 17, 1979

Additional sponsors: Mr. ROSTENKOWSKI, Mr. BRODHEAD, Ms. MIKULSKI, and Mr. NOWAK

NOVEMBER 5, 1979

Additional sponsors: Mr. YOUNG of Missouri, Mrs. BOUQUARD, Mr. EVANS of Indiana, Mr. GRASSLEY, and Mr. HOWARD

NOVEMBER 5, 1979

Reported from the Committee on Ways and Means with an amendment and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

MARCH 18, 1980

Additional sponsors: Mr. WEAVER, Mr. RICHMOND, Mr. GINGRICH, and Mr. OBERSTAR

MARCH 18, 1980

Reported from the Committee on Interstate and Foreign Commerce with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on May 8, 1979]

## A BILL

To amend certain provisions of title XVIII of the Social Security Act with respect to the medicare program established by such title, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

*SECTION 1. This Act may be cited as the "Medicare Amendments of 1979".*

### *HOME HEALTH SERVICES*

*SEC. 2. (a) Section 1811 of the Social Security Act is amended by striking out "and related post-hospital services" and inserting in lieu thereof ", related post-hospital, and home health services".*

*(b) Section 1812(a)(3) of such Act is amended to read as follows:*

*"(3) home health services."*

*(c) Section 1812(d) of such Act is repealed.*

*(d) Section 1812(e) of such Act is amended—*

*(1) by striking out "(b), (c), and (d)" and inserting in lieu thereof "(b) and (c)"; and*

*(2) by striking out "post-hospital extended care services, and post-hospital home health services" and*

1        inserting in lieu thereof "and post-hospital extended  
2        care services".

3        (e) Sections 1814(a) and 1835(a) of such Act are  
4 amended by adding the following new sentence at the end of  
5 each such section: "With respect to the physican certification  
6 required by paragraph (2) for home health services furnished  
7 to any individual by a home health agency (other than an  
8 agency which is a governmental entity) and with respect to  
9 the establishment and review of a plan for such services, the  
10 Secretary shall prescribe regulations which shall become ef-  
11 fective no later than June 30, 1980, and which prohibit a  
12 physican who has a significant ownership interest in, or a  
13 significant financial or contractual relationship with, such  
14 home health agency from performing such certification and  
15 from establishing or reviewing such plan."

16        (f) Section 1814(a)(2)(D) of such Act is amended—

17                (1) by striking out "post-hospital home health  
18        services" and inserting in lieu thereof "home health  
19        services";

20                (2) by inserting ", occupational," after "or physi-  
21        cal"; and

22                (3) by striking out ", for any of the conditions"  
23        and all that follows through "extended care services".

24        (g) Section 1832(a)(2)(A) of such Act is amended by  
25 striking out "for up to 100 visits during a calendar year".

1       (h) Section 1833(b) of such Act is amended—

2           (1) by striking out “and ” at the end of clause (1)  
3       in the first sentence; and

4           (2) by striking out the period at the end of the  
5       first sentence and inserting in lieu thereof the follow-  
6       ing: “, and (3) such deductible shall not apply with re-  
7       spect to home health services.”.

8       (i) Section 1834 of such Act is repealed.

9       (j) Section 1835(a)(2)(A) of such Act is amended by  
10      inserting “, occupational,” after “or physical”.

11      (k) Section 1861(e) of such Act is amended—

12           (1) by striking out “subsections (i) and (n)” in  
13       the material preceding paragraph (1) and inserting in  
14       lieu thereof “subsection (i)”; and

15           (2) by striking out “subsections (i) and (n)” in  
16       the third sentence and inserting in lieu thereof “subsec-  
17       tion (i)”.

18      (l) Section 1861(m)(4) of such Act is amended by in-  
19      serting the following before the semicolon: “who has success-  
20      fully completed a training program approved by the  
21      Secretary”.

22      (m) Section 1861(n) of such Act is repealed.

23      (n) Section 1861(o) of such Act is amended—

24           (1) by striking out “and” at the end of paragraph  
25       (5), by inserting “and” at the end of paragraph (6),



1       *and by adding the following new paragraph after para-*  
2       *graph (6):*

3               *“(7) meets such additional requirements (includ-*  
4       *ing conditions relating to bonding or establishing of*  
5       *escrow accounts as the Secretary finds necessary for*  
6       *the financial security of the program) as the Secretary*  
7       *finds necessary for the effective and efficient operation*  
8       *of the program;”;* and

9               (2) by striking out “except that” the first time it  
10       *appears in the material following paragraph (6) and*  
11       *all that follows through “regulations; and”.*

12       (o) Section 1816(e) of such Act is amended—

13               (1) by inserting “(subject to the provisions of  
14       *paragraph (4))” after “the Secretary may” in para-*  
15       *graph (2); and*

16               (2) by adding the following new paragraph at the  
17       *end thereof:*

18               “(4) Notwithstanding subsections (a) and (d) and para-  
19       *graphs (1), (2), and (3) of this subsection, the Secretary shall*  
20       *designate regional agencies or organizations which have en-*  
21       *tered into an agreement with him under this section to per-*  
22       *form functions under such agreement with respect to home*  
23       *health agencies (as defined in section 1861(o)) in the region,*  
24       *except that in assigning such agencies to such designated re-*  
25       *gional agencies or organizations the Secretary shall assign a*

1 *home health agency which is a subdivision of a hospital (and*  
2 *such agency and hospital are affiliated or under common*  
3 *control) only if, after applying such criteria relating to ad-*  
4 *ministrative efficiency and effectiveness as he shall promul-*  
5 *gate, he determines that such assignment would result in the*  
6 *more effective and efficient administration of this title.”.*

7       *(p) Section 1861(v)(1) of such Act is amended by*  
8 *adding the following new subparagraph at the end thereof:*

9       *“(G) In determining such reasonable cost with respect*  
10 *to home health agencies, the Secretary may not include—*

11           *“(i) any costs incurred in connection with bond-*  
12 *ing or establishing an escrow account by any such*  
13 *agency as a result of the financial security requirement*  
14 *described in subsection (o)(7);*

15           *“(ii) in the case of home health agencies to which*  
16 *the financial security requirement described in subsec-*  
17 *tion (o)(7) applies, any costs attributed to interest*  
18 *charged such an agency in connection with amounts*  
19 *borrowed by the agency to repay overpayments made*  
20 *under this title to the agency, except that such costs*  
21 *may be included in reasonable cost if the Secretary de-*  
22 *termines that the agency was acting in good faith in*  
23 *borrowing the amounts;*

24           *“(iii) in the case of contracts entered into by a*  
25 *home health agency after the date of enactment of this*

1       subparagraph for the purpose of having services fur-  
2       nished for or on behalf of such agency, any cost in-  
3       curred by such agency pursuant to any such contract  
4       (I) which is entered into for a period exceeding five  
5       years, or (II) which determines the amount payable by  
6       the home health agency on the basis of a percentage of  
7       the agency's reimbursement or claim for reimbursement  
8       for services furnished by the agency; and

9       “(iv) in the case of contracts entered into by a  
10      home health agency before the date of enactment of this  
11      subparagraph for the purpose of having services fur-  
12      nished for or on behalf of such agency, any cost in-  
13      curred by such agency pursuant to any such contract,  
14      which determines the amount payable by the home  
15      health agency on the basis of a percentage of the agen-  
16      cy's reimbursement or claim for reimbursement for  
17      services furnished by the agency, to the extent that  
18      such cost exceeds the reasonable value of the services  
19      furnished on behalf of such agency.”.

20      (q) Section 226(c)(1) of such Act is amended—

21           (1) by striking out “and post-hospital home health  
22      services” and inserting in lieu thereof “and home  
23      health services”; and

24           (2) by striking out “or post-hospital home health  
25      services” in clause (B).

1       (r) Section 7(d)(1) of the Railroad Retirement Act of  
 2 1974 is amended by striking out "posthospital home health  
 3 services" and inserting in lieu thereof "home health  
 4 services".

5       (s)(1) The amendments made by this section shall  
 6 become effective with respect to services furnished on or after  
 7 July 1, 1980, except that the amendments made by subsec-  
 8 tions (n) and (o) shall become effective on the date of the  
 9 enactment of this Act.

10       (2) The Secretary shall take administrative action to  
 11 assure that improvements, in accordance with the amendment  
 12 made by subsection (n)(1), will be made with respect to home  
 13 health services by June 30, 1980.

14       ELIMINATION OF SECOND WAITING PERIOD FOR  
 15       REENTITLED DISABILITY BENEFICIARIES

16       SEC. 3. (a)(1)(A) Section 226(b)(2) of the Social Secu-  
 17 rity Act is amended by striking out "consecutive" in clauses  
 18 (A) and (B).

19       (B) Section 226(b) of such Act is further amended by  
 20 striking out "consecutive" in the matter following paragraph  
 21 (2).

22       (2) Section 1811 of such Act is amended by striking out  
 23 "consecutive".

24       (3) Section 1837(g)(1) of such Act is amended by strik-  
 25 ing out "consecutive".



1       (4) Section 7(d)(2)(ii) of the Railroad Retirement Act  
2 of 1974 is amended by striking out “consecutive” each place  
3 it appears.

4       (b) Section 226 of the Social Security Act is amended  
5 by redesignating subsection (f) as subsection (g), and by in-  
6 serting after subsection (e) the following new subsection:

7       “(f) For purposes of subsection (b) (and for purposes of  
8 section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the  
9 Railroad Retirement Act of 1974), the 24 months for which  
10 an individual has to have been entitled to specified monthly  
11 benefits on the basis of disability in order to become entitled  
12 to hospital insurance benefits on such basis effective with any  
13 particular month (or to be deemed to have enrolled in the  
14 supplementary medical insurance program, on the basis of  
15 such entitlement, by reason of section 1837(f)), where such  
16 individual had been entitled to specified monthly benefits of  
17 the same type during a previous period which terminated—

18       “(1) more than 60 months before that particular  
19 month in any case where such monthly benefits were of  
20 the type specified in clause (A)(i) or (B) of subsection  
21 (b)(2), or

22       “(2) more than 84 months before that particular  
23 month in any case where such monthly benefits were of  
24 the type specified in clause (A)(ii) or (A)(iii) of such  
25 subsection,

1 *shall not include any month which occurred during such pre-*  
 2 *vious period."*

3       (c) *The amendments made by this section shall apply*  
 4 *with respect to hospital insurance or supplementary medical*  
 5 *insurance benefits for months after the month in which this*  
 6 *Act is enacted.*

7       *RECIPROCAL AGREEMENTS FOR SERVICES FURNISHED*

8               *OUTSIDE THE UNITED STATES*

9       *SEC. 4. Title XVIII of the Social Security Act is*  
 10 *amended by adding at the end thereof the following new*  
 11 *section:*

12               *"INTERNATIONAL AGREEMENTS*

13       *"SEC. 1882. (a) The President is authorized to enter*  
 14 *into agreements establishing reciprocal arrangements between*  
 15 *the programs established by this title and the program of any*  
 16 *foreign country under which similar services are provided*  
 17 *directly to entitled individuals or under which insurance is*  
 18 *provided to meet all or part of the expenses of entitled indi-*  
 19 *viduals for such services.*

20       *"(b) Any agreement establishing such a reciprocal ar-*  
 21 *rangement pursuant to this section shall specify—*

22               *"(1) the nature and extent of payment to be made*  
 23 *to or on behalf of (A) individuals entitled to benefits*  
 24 *under this title for services covered under such title*  
 25 *when such individuals are present in the foreign coun-*

1        *try and receive such services from persons who are au-*  
2        *thorized under the program of that foreign country to*  
3        *furnish them, and (B) individuals entitled to benefits*  
4        *under the program of that foreign country who receive*  
5        *such services in the United States from persons meet-*  
6        *ing such requirements or conditions as are required*  
7        *under such title;*

8            *“(2) such limitations on the nature and duration*  
9        *of services for which payment may be made in one*  
10       *country to individuals entitled to benefits under the*  
11       *program of the other country, as the President deems*  
12       *appropriate, except that no agreement shall authorize*  
13       *any individual to receive benefits in the United States*  
14       *on a reciprocal basis in excess of those provided for in-*  
15       *dividuals entitled to benefits under this title;*

16           *“(3) such limitations on entitlement of individ-*  
17       *uals to benefits on a reciprocal basis under an agree-*  
18       *ment in the United States and in the foreign country,*  
19       *as the President deems appropriate, except that no*  
20       *agreement shall provide entitlement to benefits under*  
21       *this title in the United States for an individual who*  
22       *does not meet the requirements for entitlement applica-*  
23       *ble under such title with respect to age or medical*  
24       *condition;*

1           “(4) the methods by which the cost of providing  
2           services to persons on a reciprocal basis shall be shared  
3           equitably by the persons receiving such services and by  
4           the respective programs of the United States and the  
5           foreign country; and

6           “(5) such other provisions, not inconsistent with  
7           this section, as the President deems appropriate.

8           “(c) The Secretary shall make rules and regulations  
9           and establish procedures which are reasonable and necessary  
10          to implement and administer any agreement which has been  
11          entered into in accordance with this section.

12          “(d) Pending the conclusion of an agreement under this  
13          section with a foreign country, the Secretary is authorized to  
14          enter into interim arrangements with any hospital in that  
15          country which is accredited by the Joint Commission on Ac-  
16          creditation of Hospitals, or such other hospitals as the Secre-  
17          tary finds meet health and safety standards equivalent to  
18          those required under this title for hospitals in the United  
19          States and which are accredited in the foreign country con-  
20          cerned, under which payment may be made for inpatient hos-  
21          pital services, as defined in section 1861, to or on behalf of  
22          an individual who is entitled to such benefits under part A of  
23          this title. For purposes of making payment under such an  
24          interim arrangement, the Secretary shall use whichever of  
25          the methods provided for in section 1814(f) he finds appropri-



1 ate, except that any payments made under part A of this title  
 2 to the individual or to the hospital shall be reduced to the  
 3 extent that the individual has no legal obligation to pay for  
 4 any items or services furnished to such individual by reason  
 5 of the laws of the foreign country in which the hospital is  
 6 located or such individual's membership in an insurance  
 7 plan that provides for payment for such items or services.”.

#### 8 DENTISTS' SERVICES

9 SEC. 5. (a) Clause (2) of the first sentence of section  
 10 1861(r) of the Social Security Act is amended to read as  
 11 follows: “(2) a doctor of dental surgery or of dental medicine  
 12 who is legally authorized to practice dentistry by the State in  
 13 which he performs such function and who is acting within  
 14 the scope of his license when he performs such functions,”.

15 (b) Section 1814(a)(2)(E) of such Act is amended to  
 16 read as follows:

17 “(E) in the case of inpatient hospital services in  
 18 connection with the care, treatment, filling, removal, or  
 19 replacement of teeth or structures directly supporting  
 20 teeth, the individual, because of his underlying medical  
 21 condition and clinical status or because of the severity  
 22 of the dental procedure, requires hospitalization in con-  
 23 nection with the provision of such services;

1       (c) Section 1862(a)(12) of such Act is amended by in-  
2       serting “or because of the severity of the dental procedure”  
3       after “clinical status”.

4                               TREATMENT OF PLANTAR WARTS

5       SEC. 6. Section 1862(a)(13)(C) of the Social Security  
6       Act is amended by striking out “, warts,”.

7                               COMMUNITY MENTAL HEALTH CENTERS

8       SEC. 7. (a) Section 1832(a)(2) of the Social Security  
9       Act is amended by striking out “and” at the end of subpara-  
10      graph (C), by striking out the period at the end of subpara-  
11      graph (D) and inserting in lieu thereof a semicolon, and by  
12      adding the following new subparagraph at the end thereof:

13                       “(E) community mental health center services;”.

14      (b) Section 1832(a)(2)(B)(i) of such Act is amended by  
15      striking out “or” at the end of subclause (I), by striking out  
16      “and” at the end of subclause (II) and inserting in lieu  
17      thereof “or”, and by adding the following new subclause after  
18      subclause (II):

19                       “(III) a physician to a patient in a commu-  
20                       nity mental health center or to a patient in a com-  
21                       prehensive outpatient rehabilitation facility; and”.

22      (c) Section 1833(c) of such Act is amended by inserting  
23      “and not a patient of a community mental health center”  
24      after “of a hospital”.

1 (d) Title XVIII of such Act is amended by adding the  
2 following new section after section 1833:

3 "LIMITATION ON COMMUNITY MENTAL HEALTH CENTER  
4 SERVICES

5 "SEC. 1834. Payment under this part may be made for  
6 community mental health center services furnished an indi-  
7 vidual for—

8 "(1) up to 15 outpatient visits during any calen-  
9 dar year; and

10 "(2) up to 60 partial hospitalization visits to such  
11 a center during any calendar year.

12 Services shall be taken into account for purposes of para-  
13 graphs (1) and (2) only if payment is or would be, except for  
14 this section or the failure to comply with the request and  
15 certification requirements of or under section 1835(a), made  
16 with respect to such services under this part."

17 (e) Section 1835(a)(2) of such Act is amended by strik-  
18 ing out the period at the end of subparagraph (D) and insert-  
19 ing in lieu thereof a semicolon, and by inserting the following  
20 new subparagraph after subparagraph (D):

21 "(E) in the case of community mental health  
22 center services, (i) such services are or were re-  
23 quired in connection with the treatment of mental,  
24 psychoneurotic, or personality disorders, (ii) a  
25 plan for furnishing such services has been estab-

1       lished by a physician (as defined in section  
2       1861(r)(1)) or other mental health professional  
3       (as defined for this purpose in regulations by the  
4       Secretary) and is periodically reviewed and ap-  
5       proved by a physician, (iii) such services are or  
6       were furnished while the individual is or was  
7       under the case management of a physician (as de-  
8       fined in section 1861(r)(1)), and (iv) in the case  
9       of services provided with respect to a partial hos-  
10      pitalization visit, the individual would otherwise  
11      require or have required (in the professional judg-  
12      ment of such physician) inpatient psychiatric  
13      services;”.

14      (f) Section 1861(l) of such Act is amended by inserting  
15      “or community mental health center” after “nursing facili-  
16      ty” each time it appears therein.

17      (g) Section 1861(u) of such Act is amended by inserting  
18      “community mental health center,” after “home health  
19      agency,”.

20      (h) Section 1861(w)(1) of such Act is amended by in-  
21      serting “community mental health center,” after “nursing  
22      facility,”.

23      (i) Section 1861 of such Act is amended by adding the  
24      following new subsection at the end thereof:



1           *“Community Mental Health Center Services*

2           *“(bb)(1) The term ‘community mental health center*  
3 *services’ means the following items and services furnished to*  
4 *an individual as an outpatient by a community mental*  
5 *health center or (to the extent permitted in regulations by the*  
6 *Secretary) by others under arrangements with them made by*  
7 *the center—*

8           *“(A) diagnostic, therapeutic, or rehabilitative*  
9 *services furnished at the facility and crisis intervention*  
10 *outside the facility, when furnished by a physician (as*  
11 *defined in subsection (r)(1)) or any qualified mental*  
12 *health professional (as defined by the Secretary in reg-*  
13 *ulations), including clinical psychologists, psychiatric*  
14 *nurses, and psychiatric social workers;*

15           *“(B) drugs and biologicals which cannot, as de-*  
16 *termined in accordance with regulations, be self-admin-*  
17 *istered; and*

18           *“(C) such items and supplies as are ordinarily*  
19 *furnished to outpatients by community mental health*  
20 *centers in connection with an active mental health pro-*  
21 *gram of diagnosis and treatment,*

22 *excluding, however, any item or service if it would not be*  
23 *included under subsection (b) if furnished to an inpatient of*  
24 *a hospital.*

1       “(2) The term ‘community mental health center’ means  
2 a facility which—

3           “(A) meets the definition of a community mental  
4 health center under section 201 of the Community  
5 Mental Health Centers Act and the regulations pre-  
6 scribed thereunder;

7           “(B) has a requirement that all mental health  
8 services are provided under the supervision of a physi-  
9 cian or other qualified mental health professional;

10          “(C) meets such requirements as the Secretary  
11 may prescribe with respect to staffing requirements and  
12 qualifications of the staff;

13          “(D) maintains clinical records on all patients;

14          “(E) has in effect a utilization review plan in ac-  
15 cordance with regulations prescribed by the Secretary;

16          “(F) has in effect an agreement with a hospital  
17 pursuant to subsection (1);

18          “(G) in the case of a community mental health  
19 center in any State in which State or applicable local  
20 law provides for the licensing of community mental  
21 health centers, is licensed pursuant to such law;

22          “(H) has appropriate procedures or arrangements  
23 (in compliance with applicable State and Federal law)  
24 for storing, administering, and dispensing drugs and  
25 biologicals; and

1           “(I) meets such other conditions of participation  
2       as the Secretary may find necessary in the interest of  
3       the health and safety of individuals who are furnished  
4       services by such center.”.

5       (j) Section 1864(a) of such Act is amended—

6           (1) by inserting “, or whether a facility therein is  
7       a community mental health center as defined in section  
8       1861(bb)(2)” before the period at the end of the first  
9       sentence;

10          (2) by inserting “or a community mental health  
11       center” after “home health agency” in the second sen-  
12       tence; and

13          (3) by inserting “community mental health  
14       center,” after “laboratory,” each time it appears in the  
15       fifth sentence.

16       (k) The amendments made by this section shall become  
17       effective with respect to a community mental health center’s  
18       first accounting period which begins on or after March 1,  
19       1980.

20       (l) The Secretary of Health, Education, and Welfare  
21       shall submit a report, not later than twenty-four months after  
22       the date of the enactment of this Act, to the Congress recom-  
23       mending a definition of an outpatient mental health center  
24       which could be used to broaden the definition of community  
25       mental health center as established by the amendments made

1 *by this section, especially the part of that definition which*  
2 *requires that such a center meet the definition of section 201*  
3 *of the Community Mental Health Centers Act.*

4       *COMPREHENSIVE OUTPATIENT REHABILITATION*  
5               *FACILITY SERVICES*

6       *SEC. 8. (a) Section 1832(a)(2) of the Social Security*  
7 *Act is amended by adding the following new subparagraph at*  
8 *the end thereof after the new subparagraph added by section*  
9 *7(a) of this Act:*

10               *“(F) comprehensive outpatient rehabilitation*  
11 *facility services; and”.*

12       *(b) Section 1835(a)(2) of such Act is amended by in-*  
13 *serting the following new subparagraph at the end thereof*  
14 *after the new subparagraph added by section 7(e) of this Act:*

15               *“(F) in the case of comprehensive outpatient*  
16 *rehabilitation facility services, (i) such services*  
17 *are or were required because the individual*  
18 *needed skilled rehabilitation services, (ii) a plan*  
19 *for furnishing such services has been established*  
20 *and is periodically reviewed by a physician, and*  
21 *(iii) such services are or were furnished while the*  
22 *individual is or was under the care of a physi-*  
23 *cian; and”.*



1       (c) Section 1861(u) of such Act is amended by inserting  
2   “comprehensive outpatient rehabilitation facility,” immedi-  
3   ately after “skilled nursing facility,”.

4       (d) Section 1861(z) of such Act is amended by striking  
5   out “extended care facility,” and inserting in lieu thereof  
6   “skilled nursing facility, comprehensive outpatient rehabili-  
7   tation facility,”.

8       (e) Section 1861 of such Act is amended by adding the  
9   following new subsection at the end thereof after the new sub-  
10   section added by section 7(i) of this Act:

11       “Comprehensive Outpatient Rehabilitation Facility

12                               Services

13       “(cc)(1) The term ‘comprehensive outpatient rehabilita-  
14   tion facility services’ means the following items and services  
15   furnished by a physician or other qualified professional per-  
16   sonnel (as defined in regulations by the Secretary) to an in-  
17   dividual who is an outpatient of a comprehensive outpatient  
18   rehabilitation facility under a plan (for furnishing such  
19   items and services to such individual) established and peri-  
20   odically reviewed by a physician—

21               “(A) physicians’ services;

22               “(B) physical therapy, occupational therapy,  
23   speech pathology services, and respiratory therapy;

1           “(C) prosthetic and orthotic devices, including  
2           testing, fitting, or training in the use of prosthetic and  
3           orthotic devices;

4           “(D) social and psychological services;

5           “(E) nursing care provided by or under the su-  
6           pervision of a registered professional nurse;

7           “(F) drugs and biologicals which cannot, as deter-  
8           mined in accordance with regulations, be self-  
9           administered;

10          “(G) supplies, appliances, and equipment, includ-  
11          ing the purchase or rental of equipment; and

12          “(H) such other items and services as are medi-  
13          cally necessary for the rehabilitation of the patient and  
14          are ordinarily furnished by comprehensive outpatient  
15          rehabilitation facilities,

16          excluding, however, any item or service if it would not be  
17          included under subsection (b) if furnished to an outpatient of  
18          a hospital.

19          “(2) The term ‘comprehensive outpatient rehabilitation  
20          facility’ means a facility which—

21               “(A) is primarily engaged in providing (by or  
22               under the supervision of physicians) diagnostic, thera-  
23               peutic, and restorative services to outpatients for the re-  
24               habilitation of injured, disabled, or sick persons;

1           “(B) provides at least the following comprehensive  
2       outpatient rehabilitation services: (i) physicians’ serv-  
3       ices (rendered by physicians, as defined in section  
4       1861(r)(1), who are available at the facility on a full-  
5       or part-time basis); (ii) physical therapy; and (iii)  
6       social or psychological services;

7           “(C) maintains clinical records on all patients;

8           “(D) has policies established by a group of profes-  
9       sional personnel (associated with the facility), includ-  
10      ing one or more physicians defined in subsection (r)(1)  
11      to govern the comprehensive outpatient rehabilitation  
12      services it furnishes, and provides for the carrying out  
13      of such policies by a full- or part-time physician re-  
14      ferred to in subparagraph (B)(i);

15          “(E) has a requirement that every patient must  
16      be under the care of a physician;

17          “(F) in the case of a facility in any State in  
18      which State or applicable local law provides for the li-  
19      censing of facilities of this nature (i) is licensed pursu-  
20      ant to such law, or (ii) is approved by the agency of  
21      such State or locality, responsible for licensing facili-  
22      ties of this nature, as meeting the standard establish-  
23      ment for such licensing;

24          “(G) has in effect a utilization review plan in ac-  
25      cordance with regulations prescribed by the Secretary;

1           “(H) has in effect an overall plan and budget that  
2       meets the requirements of subsection (z); and

3           “(I) meets such other conditions of participation  
4       as the Secretary may find necessary in the interest of  
5       the health and safety of individuals who are furnished  
6       services by such facility, including conditions concern-  
7       ing qualifications of personnel in these facilities.”.

8       (f) Section 1863 of such Act is amended by striking out  
9       “and (o)(6)” in the first sentence and inserting in lieu there-  
10      of “(o)(6), and (cc)(2)(I)”.

11      (g) Section 1864(a) of such Act is amended—

12           (1) by inserting “or a comprehensive outpatient  
13       rehabilitation facility as defined in section  
14       1861(cc)(2)” after “section 1861(aa)(2)” in the first  
15       sentence; and

16           (2) by inserting “comprehensive outpatient reha-  
17       bilitation facility,” after “rural health clinic,” each  
18       time it appears in the second and fifth sentences.

19       (h) The amendments made by this section shall become  
20       effective with respect to a comprehensive outpatient rehabili-  
21       tation facility’s first accounting period which begins on or  
22       after March 1, 1980.

23                                   OPTOMETRISTS’ SERVICES

24       SEC. 9. (a) Clause (4) of the first sentence of section  
25       1861(r) of the Social Security Act is amended by striking



1 out "but only with respect to establishing the necessity for  
2 prosthetic lenses," and inserting in lieu thereof "but only  
3 with respect to services related to the treatment of aphakia,".

4 (b) The Secretary of Health, Education, and Welfare  
5 shall submit to the Congress by June 1, 1980, legislative  
6 recommendations with respect to reimbursement under title  
7 XVIII of the Social Security Act for services furnished by  
8 optometrists in connection with the treatment of cataracts and  
9 for such other services which they are legally authorized to  
10 perform.

#### 11 ANTIGENS

12 SEC. 10. Section 1861(s)(2) of the Social Security Act  
13 is amended by striking out "and" at the end of subparagraph  
14 (E), by inserting "and" at the end of subparagraph (F), and  
15 by inserting the following new subparagraph after subpara-  
16 graph (F):

17 "(G) antigens (subject to quantity limitations pre-  
18 scribed in regulations by the Secretary) prepared by a  
19 physician, as defined in section 1861(r)(1), for a par-  
20 ticular patient, including antigens so prepared which  
21 are forwarded to another qualified person (including a  
22 rural health clinic) for administration to such patient,  
23 from time to time, by or under the supervision of an-  
24 other such physician;".

1        *PAYMENT WHERE BENEFICIARY NOT AT FAULT*

2        *SEC. 11. Section 1879 of the Social Security Act is*  
3        *amended by adding the following new subsection at the end*  
4        *thereof:*

5        *“(e) Where payment for inpatient hospital services or*  
6        *extended care services may not be made under part A of this*  
7        *title on behalf of an individual entitled to benefits under such*  
8        *part solely because of an unintentional, inadvertent, or erro-*  
9        *neous action with respect to the transfer of such individual*  
10       *from a hospital or skilled nursing facility that meets the re-*  
11       *quirements of sections 1861 (e) or (j) by such a provider of*  
12       *services acting in good faith in accordance with the advice of*  
13       *a utilization review committee, professional standards review*  
14       *organization, or fiscal intermediary, or on the basis of a*  
15       *clearly erroneous administrative decision by a provider of*  
16       *services, the Secretary shall take such action with respect to*  
17       *the payment of such benefits as he determines may be neces-*  
18       *sary to correct the effects of such unintentional, inadvertent,*  
19       *or erroneous action.”.*

20       *FLEXIBILITY IN APPLICATION OF STANDARDS TO RURAL*  
21       *HOSPITALS*

22       *SEC. 12. Section 1861(e) of the Social Security Act is*  
23       *amended by adding the following new sentence at the end*  
24       *thereof: “The term ‘hospital’ also includes a facility of fifty*  
25       *beds or less which is located in an area determined by the*

1 Secretary to meet the definition relating to a rural area de-  
2 scribed in subparagraph (A) of paragraph (5) of this subsec-  
3 tion and which meets the other requirements of this subsec-  
4 tion, except that—

5       “(A) with respect to the requirements for nursing  
6 services applicable after December 31, 1978, such re-  
7 quirements shall provide for temporary waiver of the  
8 requirements, for such period as the Secretary deems  
9 appropriate, where (i) the facility’s failure to fully  
10 comply with the requirements is attributable to a tem-  
11 porary shortage of qualified nursing personnel in the  
12 area in which the facility is located, (ii) a registered  
13 professional nurse is present on the premises to render  
14 or supervise the nursing service provided during at  
15 least the regular daytime shift, and (iii) the Secretary  
16 determines that the employment of such nursing per-  
17 sonnel as are available to the facility during such tem-  
18 porary period will not adversely affect the health and  
19 safety of patients;

20       “(B) with respect to the health and safety require-  
21 ments promulgated under paragraph (9), such require-  
22 ments shall be applied by the Secretary to a facility  
23 herein defined in such manner as to assure that per-  
24 sonnel requirements take into account the availability  
25 of technical personnel and the educational opportuni-

1        *ties for technical personnel in the area in which such*  
2        *facility is located, and the scope of services rendered by*  
3        *such facility; and the Secretary, by regulations, shall*  
4        *provide for the continued participation of such a facil-*  
5        *ity where such personnel requirements are not fully*  
6        *met, for such period as the Secretary determines that*  
7        *(i) the facility is making good faith efforts to fully*  
8        *comply with the personnel requirements, and (ii) the*  
9        *employment by the facility of such personnel as are*  
10       *available to the facility will not adversely affect the*  
11       *health and safety of patients; and*

12                *“(C) with respect to the fire and safety require-*  
13        *ments promulgated under paragraph (9), the Secretary*  
14        *may (i) waive, for such period as he deems appropri-*  
15        *ate, specific provisions of such requirements which if*  
16        *rigidly applied would result in unreasonable hardship*  
17        *for such a facility and which, if not applied, would not*  
18        *jeopardize the health and safety of patients, and (ii)*  
19        *may accept a facility’s compliance with all applicable*  
20        *State codes relating to fire and safety in lieu of com-*  
21        *pliance with the fire and safety requirements promul-*  
22        *gated under paragraph (9), if he determines that such*  
23        *State has in effect fire and safety codes, imposed by*  
24        *State law, which adequately protect patients.”.*



1        *CERTIFICATION AND UTILIZATION REVIEW BY*2                                *PODIATRISTS*3        *SEC. 13. (a) Section 1861(r)(3) of the Social Security*4 *Act is amended to read as follows: “(3) a doctor of podiatric*5 *medicine for the purposes of subsection (s) of this section but*6 *only with respect to functions which he is legally authorized*7 *to perform as such by the State in which he performs them;*8 *and for the purposes of subsections (k) and (m) of this section*9 *and sections 1814(a) and 1835 but only if his performance of*10 *functions under subsections (k) and (m) and sections 1814(a)*11 *and 1835 is consistent with the policy of the institution or*12 *agency with respect to which he performs them and with the*13 *functions which he is legally authorized to perform,”.*14        *(b) Section 1861(k)(2)(A) of such Act is amended by*15 *inserting after “two or more physicians” the following: “(of*16 *which at least two must be physicians described in subsection*17 *(r)(1) of this section)”.*18        *PHYSICIAN TREATMENT PLAN FOR SPEECH PATHOLOGY*19        *SEC. 14. Section 1835(a)(2)(D)(ii) of the Social Secu-*20 *rity Act is amended by inserting after “established” the fol-*21 *lowing: “by a physician or by the speech pathologist provid-*22 *ing such services”.*

PAYMENT FOR PHYSICIANS' SERVICES WHERE

BENEFICIARY HAS DIED

SEC. 15. (a) Section 1870(f) of the Social Security Act

is amended to read as follows:

“(f) If an individual who received medical and other health services for which payment may be made under section 1832(a)(1) dies, and no assignment of the right to payment for such services was made by such individual before his death, and payment for such services has not been made—

“(1) if the person or persons who furnished the services agree that the reasonable charge is the full charge for the services, payment for such services shall be made to such person or persons, and

“(2) if the person or persons who furnished the services do not agree that the reasonable charge is the full charge for the services, payment for such services shall be made on the basis of an itemized bill to the person who has agreed to assume the legal obligation to make payment for such services and files a request for payment (with such accompanying evidence of such legal obligation as may be required in regulations),

but only in such amount and subject to such conditions as would be applicable if the individual who received the services had not died.”.

1        *(b) The amendment made by this section shall apply*  
 2 *only to claims filed on or after the date of the enactment of*  
 3 *this Act.*

4                    *PRESUMED COVERAGE PROVISIONS*

5        *SEC. 16. (a) Section 1814 of the Social Security Act is*  
 6 *amended by striking out subsections (h) and (i) and by redes-*  
 7 *ignating subsection (j) as subsection (h).*

8        *(b) Section 1814(c) of such Act is amended by striking*  
 9 *out "subsection (j)" and inserting in lieu thereof "subsection*  
 10 *(h)".*

11                    *PAYMENT TO PROVIDERS OF SERVICES*

12        *SEC. 17. (a) Section 1814(b) of the Social Security*  
 13 *Act is amended to read as follows:*

14        *"(b) The amount paid to any provider of services with*  
 15 *respect to services for which payment may be made under*  
 16 *this part shall, subject to the provisions of section 1813, be*  
 17 *the reasonable cost of such services, as determined under sec-*  
 18 *tion 1861(v) and as further limited by section*  
 19 *1881(b)(2)(B)."*

20        *(b) Section 1833(a) of such Act is amended by striking*  
 21 *out paragraphs (2) and (3) and inserting in lieu thereof the*  
 22 *following:*

23        *"(2) in the case of services described in section*  
 24 *1832(a)(2) (except those services described in subpara-*

1       graphs (D), (E), (F), and (G) of such section and in  
2       paragraph (5) of this subsection)—

3               “(A) with respect to home health services, the  
4       reasonable cost of such services, as determined  
5       under section 1861(v);

6               “(B) with respect to other services (except  
7       those described in subparagraph (C) of this para-  
8       graph), the reasonable costs of such services, as so  
9       determined, less the amount a provider may  
10      charge as described in clause (ii) of section  
11      1866(a)(2)(A), but in no case may the payment  
12      for such other services exceed 80 percent of such  
13      costs;

14              “(C) with respect to services described in the  
15      second sentence of section 1861(p), 80 percent of  
16      the reasonable charges for such services;

17              “(3) in the case of services described in subpara-  
18      graphs (D), (E), and (F) of section 1832(a)(2), the  
19      costs which are reasonable and related to the cost of  
20      furnishing such services or which are based on such  
21      other tests of reasonableness as the Secretary may pre-  
22      scribe in regulations, including those authorized under  
23      section 1861(v)(1)(A), less the amount a provider may  
24      charge as described in clause (ii) of section



1       1866(a)(2)(A), but in no case may the payment for  
2       such services exceed 80 percent of such costs; and

3           “(4) in the case of facility services described in  
4       subparagraph (G) of section 1832(a)(2), the applicable  
5       amount described in subparagraph (A) of section  
6       1833(i)(2); and

7           “(5) in the case of preadmission diagnostic serv-  
8       ices described in section 1861(s)(2)(C) which are fur-  
9       nished to an individual by the outpatient department of  
10      a hospital within 7 days of such individual’s admis-  
11      sion to the same hospital as an inpatient or (to the  
12      extent practicable as determined by regulations pre-  
13      scribed by the Secretary) to another hospital, the rea-  
14      sonable costs for such services.”.

15      (c) The amendments made by this section shall apply to  
16      services furnished on or after January 1, 1980.

17           LIMIT ON PREMIUM INCREASES DUE TO LATE

18                   ENROLLMENT

19      SEC. 18. The first sentence of section 1839(d) of the  
20      Social Security Act is amended by inserting the following  
21      immediately before the period at the end thereof: “; except  
22      that in no case may the total amount of such increase exceed  
23      30 percent of such monthly premium so determined”.

### REENROLLMENT IN PART B

2        *SEC. 19. Section 1837(b) of the Social Security Act is*  
3 *repealed.*

## CHIROPRACTORS' SERVICES

5 SEC. 20. (a) Section 1861(r)(5) of the Social Security  
6 Act is amended by striking out “demonstrated by X-ray to  
7 exist” and inserting in lieu thereof “demonstrated by X-ray  
8 or other chiropractic clinical findings to exist”.

9           (b) Section 1861(s)(3) of such Act is amended by in-  
10   serting “(A)” after “(3)”, and by adding the following new  
11   subparagraph at the end thereof:

12           “(B) diagnostic X-ray tests which are furnished  
13       by a physician described in subsection (r)(5) and  
14       which are reasonable and necessary in the diagnosis of  
15       a subluxation of the spine;”.

## INCREASE IN OUTPATIENT MENTAL HEALTH BENEFITS

UNDER PART B

SEC. 21. (a)(1) Section 1833(c) of the Social Security  
Act is amended—

20 (A) by striking out “there” and inserting in lieu  
21 thereof “not more than \$937.50”; and

22 (B) by striking out everything after “subsections  
23 (a) and (b)” and inserting in lieu thereof a period.

24           (2) Section 1866(a)(2)(A) of such Act is amended by  
25   striking out the last sentence.

1       (3) *The amendments made by this subsection apply to*  
2 *expenses incurred in calendar years beginning after the date*  
3 *of the enactment of this Act.*

4       (b)(1) *Section 1861(r) of such Act is amended by strik-*  
5 *ing out “or” at the end of clauses (3) and (4) of the first*  
6 *sentence and by inserting the following before the period at*  
7 *the end of the first sentence: “, or (6) a clinical psychologist*  
8 *who is licensed as such by the State (or in a State which*  
9 *does not license clinical psychologists as such, is legally au-*  
10 *thorized to perform the services of a clinical psychologist in*  
11 *the jurisdiction in which he performs such services) and who*  
12 *meets uniform minimum requirements prescribed by the Sec-*  
13 *retary, but only for the purpose of section 1861(s)(1) and*  
14 *section 1835(a)(2)(B)(ii) and only with respect to the treat-*  
15 *ment of an individual who is not an inpatient of a hospital*  
16 *(as defined in subsection (e) or (f) of this section), was re-*  
17 *ferred to the psychologist by a physician described in clause*  
18 *(1), and is receiving such services in connection with the*  
19 *treatment of mental, psychoneurotic, or personality disorders*  
20 *and only with respect to services which such clinical psychol-*  
21 *ogist is legally authorized to perform by the State or jurisdic-*  
22 *tion in which such services are furnished”.*

23       (2) *Section 1835(a)(2)(B) of such Act is amended—*

24               (A) *by inserting “(i)” before “in the case of”;*

25               (B) *by striking out “and” at the end thereof; and*

1           (C) by adding the following at the end thereof:

2           “(ii) in the case of services furnished by a  
3           physician described in section 1861(r)(6) to an  
4           individual described in such section, such services  
5           are or were required for the treatment of mental,  
6           psychoneurotic, or personality disorders;”.

7           LIMITATION ON PAYMENTS TO RADIOLOGISTS AND  
8           PATHOLOGISTS

9           SEC. 22. (a) Subsections (a)(1)(B) and (b)(2) of sec-  
10          tion 1833 of the Social Security Act are each amended by  
11          inserting after “pathology” the following: “who has in effect  
12          an agreement with the Secretary by which the physician  
13          agrees to accept an assignment (as provided for in section  
14          1842(b)(3)(B)(ii)) for all physicians’ services furnished by  
15          him for hospital inpatients enrolled under this part”.

16          (b) The amendments made by subsection (a) shall apply  
17          to services furnished after the sixth calendar month begin-  
18          ning after enactment of this Act.

19          SHORTENED PART B TERMINATION PERIOD FOR CERTAIN  
20          INDIVIDUALS WHOSE PREMIUMS MEDICAID HAS  
21          CEASED TO PAY

22          SEC. 23. (a) Section 1843(e) of the Social Security Act  
23          is amended by adding at the end thereof the following: “The  
24          coverage period under this part of any such individual who  
25          (in the last month of his coverage period attributable to the



1 State agreement or in any of the following six months) files  
 2 notice that he no longer wishes to participate in the insurance  
 3 program established by this part, shall terminate at the close  
 4 of the month in which the notice is filed.”.

5 (b) The second sentence of section 1838(b) of such Act is  
 6 amended by inserting “(except as otherwise provided in sec-  
 7 tion 1843(e))” after “shall”.

8 (c) Section 1843(g)(2) of such Act is amended—

9 (1) by adding “and” at the end of clause (A);

10 (2) by striking out “, and” at the end of clause

11 (B) and inserting in lieu thereof a period; and

12 (3) by striking out clause (C).

13 (d) The amendments made by this section apply to no-  
 14 tices filed after the third calendar month beginning after the  
 15 date of the enactment of this Act.

16 (e) The coverage period under part B of title XVIII of  
 17 the Social Security Act of an individual whose coverage  
 18 period attributable to a State agreement under section 1843  
 19 of such Act is terminated and who has filed notice before the  
 20 end of the third calendar month beginning after the date of  
 21 the enactment of this Act that he no longer wishes to partici-  
 22 pate in the insurance program established by part B of title  
 23 XVIII shall terminate on the earlier of (1) the day specified  
 24 in section 1838 without the amendments made by this sec-  
 25 tion, or (2) (unless the individual files notice before the day

1 *specified in this clause that he wishes his coverage period to*  
 2 *terminate as provided in clause (1)) the day on which his*  
 3 *coverage period would terminate if the individual filed notice*  
 4 *in the fourth calendar month beginning after the date of the*  
 5 *enactment of this Act.*

6           *OUTPATIENT PHYSICAL THERAPY SERVICES*

7           *SEC. 24. (a) Section 1833(g) of the Social Security*  
 8 *Act, as added by section 251(a)(2) of Public Law 92-603, is*  
 9 *amended by striking out "\$100" and inserting in lieu thereof*  
 10 *"\$500".*

11           *(b) Subsection (g) of section 1833 of such Act, as added*  
 12 *by section 279(b) of Public Law 92-603, is redesignated as*  
 13 *subsection (h).*

14           *REIMBURSEMENT FOR BLOOD*

15           *SEC. 25. (a) The following provisions of the Social Se-*  
 16 *curity Act are repealed:*

- 17                   *(1) paragraph (2) of section 1813(a);*  
 18                   *(2) the last sentence of section 1833(b); and*  
 19                   *(3) section 1866(a)(2)(C).*

20           *(b) Section 1861(v)(1)(A) of such Act is amended by*  
 21 *striking out "and" before "(ii)" in the fourth sentence and by*  
 22 *inserting the following before the period at the end of such*  
 23 *sentence: ", and (iii) take into account the customary prac-*  
 24 *tices of providers of services in the replacement of blood (or*  
 25 *equivalent quantities of packed red blood cells, as defined in*

1 regulations) furnished to an individual with respect to whom  
 2 payment may be made under this title, except that, notwith-  
 3 standing such practices, such adjustments as are necessary to  
 4 assure compliance with the principles set forth in this subsec-  
 5 tion (and regulations pursuant thereto) shall be made in de-  
 6 termining such costs”.

7 *MEDICARE PAYMENT LIABILITY SECONDARY IN CERTAIN*  
 8 *AUTOMOBILE INSURANCE CASES*

9 *SEC. 26. Section 1862(b) of the Social Security Act is*  
 10 *amended—*

11 (1) by inserting “or under an automobile insur-  
 12 ance policy” before the period at the end of the first  
 13 sentence thereof; and

14 (2) by inserting “or policy” before the period at  
 15 the end of the second sentence thereof.

16 *HOSPITAL TRANSFER REQUIREMENT FOR SKILLED*  
 17 *NURSING FACILITY COVERAGE*

18 *SEC. 27. Section 1861(i) of the Social Security Act is*  
 19 *amended—*

20 (1) by striking out “14 days” each place it ap-  
 21 pears therein and inserting in lieu thereof “30 days”;  
 22 and

23 (2) by striking out “, or (B) within 28 days” and  
 24 all that follows through “he resides, or (C)” and in-  
 25 serting in lieu thereof “, or (B)”;

## OUTPATIENT SURGERY

1  
2       SEC. 28. (a) Section 1832(a) of the Social Security  
3 Act is amended by adding the following new subparagraph at  
4 the end of paragraph (2) after the new subparagraphs added  
5 by sections 7(a) and 8(a) of this Act:

6               “(G) facility services furnished in connec-  
7 tion with surgical procedures specified by the Sec-  
8 retary pursuant to section 1833(i)(1) and per-  
9 formed in an ambulatory surgical center (which  
10 meets health, safety, and other standards specified  
11 by the Secretary in regulations).”.

12       (b) Section 1833 of such Act is amended by adding the  
13 following new subsection at the end thereof:

14       “(i)(1) The Secretary shall, in consultation with the  
15 National Professional Standards Review Council and appro-  
16 priate medical organizations, specify surgical procedures  
17 which are appropriately (when considered in terms of the  
18 proper utilization of hospital inpatient facilities) performed  
19 on an inpatient basis in a hospital but which also can be  
20 performed safely on an ambulatory basis in an ambulatory  
21 surgical center or hospital outpatient department.

22       “(2)(A) The amount of payment to be made for facility  
23 services furnished in connection with surgical procedures  
24 specified pursuant to paragraph (1) and furnished to an indi-  
25 vidual in an ambulatory surgical center shall be equal to an



1 amount established by the Secretary with respect to each  
2 such procedure which (i) takes into account the costs incurred  
3 by such centers, or classes of centers, generally in providing  
4 the services appropriate for the performance of such services,  
5 and (ii) takes such costs into account in such a manner  
6 which will assure that the performance of the service in such  
7 an ambulatory surgical center will result in substantially  
8 less amounts paid under this title than would have been paid  
9 if the services had been furnished on an inpatient basis. The  
10 amount so established shall be reviewed periodically and may  
11 be adjusted, when appropriate, to take account of varying  
12 conditions in different areas.

13       “(B) The amount of payment to be made under this part  
14 for services (including all pre- and post-operative services)  
15 described in paragraphs (1) and (2)(A) of section 1861(s)  
16 and furnished in connection with surgical procedures (speci-  
17 fied pursuant to paragraph (1) of this subsection) in an am-  
18 bulatory surgical center or a hospital outpatient department  
19 shall be the reasonable charge for such services if the physi-  
20 cian accepts an assignment, as provided for in section  
21 1842(b)(3)(B)(ii), with respect to such payment.”.

22       (c) Section 1835(a)(2) of such Act is amended by  
23 adding the following new subparagraph at the end thereof  
24 after the subparagraphs added by sections 7(e) and 8(b) of  
25 this Act:

1           “(G) in the case of services furnished in con-  
 2           nection with surgical procedures, specified pursu-  
 3           ant to section 1833(i)(1), in an ambulatory surgi-  
 4           cal center, such services are or were medically re-  
 5           quired.”.

6           (d) Section 1861(u) of such Act is amended by insert-  
 7           ing “ambulatory surgical center,” after “hospital,”.

8           TECHNICAL RENAL DISEASE AMENDMENTS

9           SEC. 29. (a) Section 1881(e) of the Social Security Act  
 10          is amended—

11           (1) by striking “and” the first time it appears in  
 12           paragraph (1) and inserting a comma in lieu thereof;

13           (2) by inserting “and nonprofit entities which the  
 14           Secretary finds can furnish equipment economically  
 15           and efficiently,” after “renal dialysis facilities,” in  
 16           paragraph (1);

17           (3) by striking out “such providers and facilities”  
 18           and inserting in lieu thereof “such providers, facilities,  
 19           and nonprofit entities”; and

20           (4) by striking out “or facility will—” in para-  
 21           graph (2) and inserting in lieu thereof “, facility, or  
 22           other entity will—”.

23           (b) Section 1881(g) of such Act is amended by striking  
 24           out “April” each time it appears and inserting in lieu thereof  
 25           “July”.

1            *PREADMISSION DIAGNOSTIC TESTING*

2            *SEC. 30. (a) Section 1833(a)(1) of the Social Security*  
3 *Act is amended by striking out "and (E)" and inserting in*  
4 *lieu thereof "(E)", and by inserting the following after "sec-*  
5 *tion 1881," at the end of clause (E); "and (F) with respect to*  
6 *expenses incurred for preadmission diagnostic radiological or*  
7 *pathological services for which payment may be made under*  
8 *this part and which are furnished to an individual by the*  
9 *outpatient department of a hospital within seven days of such*  
10 *individual's admission to the same hospital as an inpatient*  
11 *or, to the extent practicable as determined by regulations pre-*  
12 *scribed by the Secretary, to another hospital by a physician*  
13 *in the field of radiology or pathology who has an agreement*  
14 *in effect with the Secretary by which the physician agrees to*  
15 *accept an assignment (as provided for in section*  
16 *1842(b)(3)(B)(ii)) for all physicians' services furnished by*  
17 *him for such services to individuals enrolled under this part,*  
18 *the amounts paid shall be equal to the reasonable charges for*  
19 *such services,".*

20            *(b) The Secretary of Health, Education, and Welfare*  
21 *shall report to the Congress no later than one year after the*  
22 *date of the enactment of this Act describing the policy which*  
23 *has been developed and is being or will be implemented with*  
24 *respect to the amendments made by subsection (a) of this*  
25 *section and by section 17(b) of this Act as they concern ex-*

1    *penses incurred for preadmission diagnostic testing furnished*  
2    *to an individual at a hospital within seven days of an indi-*  
3    *vidual's admission to another hospital.*

4                    *STUDIES AND DEMONSTRATION PROJECTS*

5            *SEC. 31. (a) The Secretary of Health, Education, and*  
6    *Welfare (hereinafter in this section referred to as the "Secre-*  
7    *tary") shall develop and carry out a demonstration project to*  
8    *determine (1) the extent to which the commencement of nutri-*  
9    *tional therapy in early renal failure, utilizing (but not limit-*  
10   *ed to) controlled protein substances, can retard or arrest the*  
11   *progression of the disease with a resultant substantive defer-*  
12   *ment of dialysis, and (2) the administrative, financial, and*  
13   *other aspects of making such nutritional therapy generally*  
14   *available as part of the benefits received under title XVIII of*  
15   *the Social Security Act.*

16            *(b) The Secretary shall submit, to the Congress, within*  
17   *one year after the date of the enactment of this Act, a report*  
18   *on the demonstration projects being conducted by the Secre-*  
19   *tary with respect to waiving the applicable cost sharing*  
20   *amounts which beneficiaries under title XVIII of the Social*  
21   *Security Act have to pay for obtaining a second opinion on*  
22   *having surgery performed. Such report shall include any rec-*  
23   *ommendations for legislative changes in such title which the*  
24   *Secretary finds desirable as a result of such demonstration*  
25   *projects.*



1       (c) *The Secretary shall conduct a study of the circum-*  
2 *stances and conditions under which services furnished by*  
3 *registered dietitians should be covered as a home health bene-*  
4 *fit under title XVIII of the Social Security Act.*

5       (d) *The Secretary shall develop and carry out demon-*  
6 *stration projects to determine the administrative, financial,*  
7 *and other aspects of making the services of clinical social*  
8 *workers more generally available as part of the benefits re-*  
9 *ceived under title XVIII of the Social Security Act.*

10       (e) *The Secretary shall, in consultation with appropri-*  
11 *ate professional organizations, conduct a comprehensive*  
12 *study of methods for providing coverage under part B of title*  
13 *XVIII of the Social Security Act for orthopedic shoes for*  
14 *individuals with disabling or deforming conditions who re-*  
15 *quire special fitting considerations to help protect against in-*  
16 *creasing disability or serious medical complications or who*  
17 *require special shoes in conjunction with the use of an ortho-*  
18 *sis or foot support. The Secretary shall submit to the Con-*  
19 *gress, no later than January 1, 1981, a report on the find-*  
20 *ings of this study and such specific legislative recommenda-*  
21 *tions as is appropriate with respect to the utilization, cost*  
22 *control, quality of care, and equitable and efficient adminis-*  
23 *tration of such an extension of coverage.*

24       (f) *The Secretary shall conduct a study of the circum-*  
25 *stances and conditions under which services furnished with*

1 *respect to respiratory therapy should be covered as a home*  
2 *health benefit under title XVIII of the Social Security Act.*

3       (g) *The Secretary shall conduct a study involving a*  
4 *comprehensive analysis of the cost effects of alternative ap-*  
5 *proaches to improving coverage under title XVIII of the*  
6 *Social Security Act for the treatment of various types of foot*  
7 *conditions.*

8       (h) *The Secretary shall submit a report on each of the*  
9 *demonstration projects and studies described in subsections*  
10 *(a), (c), (d), (f), and (g). Each such report shall be submitted*  
11 *within twenty-four months of the date of the enactment of this*  
12 *Act and shall contain any recommendations for legislative*  
13 *changes which the Secretary finds desirable as a result of*  
14 *conducting the demonstration project or study with respect to*  
15 *which the report is submitted.*

16       (i) *Grants, payments under contracts, and other ex-*  
17 *penditures made for studies and demonstration projects under*  
18 *this section shall be made in appropriate part from the Feder-*  
19 *al Hospital Insurance Trust Fund (established by section*  
20 *1817 of the Social Security Act) and the Federal Supple-*  
21 *mentary Medical Insurance Trust Fund (established by sec-*  
22 *tion 1841 of the Social Security Act). Grants and payments*  
23 *under contracts may be made either in advance or by way of*  
24 *reimbursement, as may be determined by the Secretary, and*  
25 *shall be made in such installments and on such conditions as*

1 *the Secretary finds necessary to carry out the purpose of this*  
 2 *section. With respect to any such grant, payment, or other*  
 3 *expenditure, the amount to be paid from each of such trust*  
 4 *funds shall be determined by the Secretary, giving due*  
 5 *regard to the purposes of the experiment or project involved.*

6 *PROVIDER REIMBURSEMENT REVIEW BOARD*

7 *SEC. 32. Section 1878(f)(1) of the Social Security Act*  
 8 *is amended by inserting the following after the second sen-*  
 9 *tence thereof: "Providers shall also have the right to obtain*  
 10 *judicial review of any action of the fiscal intermediary which*  
 11 *involves a question of law or regulations relevant to the mat-*  
 12 *ters in controversy whenever the Board determines (on its*  
 13 *own motion or at the request of a provider of services as de-*  
 14 *scribed in the following sentence) that it is without authority*  
 15 *to decide the question, by a civil action commenced within*  
 16 *sixty days of the date on which such determination is ren-*  
 17 *dered. If a provider of services may obtain a hearing under*  
 18 *subsection (a) and has filed a request for such a hearing,*  
 19 *such provider may file a request for a determination by the*  
 20 *Board of its authority to decide the question of law or regula-*  
 21 *tions relevant to the matters in controversy (accompanied by*  
 22 *such documents and materials as the Board shall require for*  
 23 *purposes of rendering such determination). The Board shall*  
 24 *render such determination in writing within thirty days after*  
 25 *the Board receives the request and such accompanying docu-*

1 ments and materials, and the determination shall be consid-  
2 ered a final decision and not subject to review by the Secre-  
3 tary. If the Board fails to render such determination within  
4 such period, the provider may bring a civil action (within  
5 sixty days of the end of such period) with respect to the  
6 matter in controversy contained in such request for a hear-  
7 ing.”.

#### 8 ACCESS TO BOOKS AND RECORDS OF SUBCONTRACTORS

9 SEC. 33. Section 1861(v)(1) of the Social Security Act  
10 is amended by adding the following new subparagraph after  
11 the subparagraph added by section 2(p) of this Act:

12 “(H) In determining such reasonable cost, the Secretary  
13 may not include any costs incurred by a provider with re-  
14 spect to any service furnished in connection with matters for  
15 which payment may be made under this title and furnished  
16 pursuant to a contract between the provider and any of its  
17 subcontractors which is entered into after the date of enact-  
18 ment of this subparagraph and the value or cost of which is  
19 \$10,000 or more over a twelve-month period unless the con-  
20 tract contains a clause to the effect that the Secretary and the  
21 Comptroller General of the United States (or any of his duly  
22 authorized representatives) shall, until the expiration of three  
23 years after the furnishing of such service pursuant to such  
24 contract, have access to and the right to examine (for pur-  
25 poses of audit and transcription) any directly related perti-



1 *nent books, documents, papers, and records of such subcon-*  
 2 *tractor."*

3                   **SHORT TITLE; TABLE OF CONTENTS**

4           **SECTION 1. This Act may be cited as the "Medi-**  
 5 **care Amendments of 1980".**

**TABLE OF CONTENTS**

- Sec. 1. Short title; table of contents.
- Sec. 2. Home health services.
- Sec. 3. Elimination of second waiting period for reentitled disability beneficiaries.
- Sec. 4. Report on coverage of medicare beneficiaries outside the United States.
- Sec. 5. Dentists' services.
- Sec. 6. Treatment of plantar warts.
- Sec. 7. Community mental health centers.
- Sec. 8. Comprehensive outpatient rehabilitation facility services.
- Sec. 9. Optometrists' services.
- Sec. 10. Antigens.
- Sec. 11. Payment where beneficiary not at fault.
- Sec. 12. Flexibility in application of standards to rural hospitals.
- Sec. 13. Certification and utilization review by podiatrists.
- Sec. 14. Physician treatment plan for speech pathology.
- Sec. 15. Payment for physicians' services where beneficiary has died.
- Sec. 16. Presumed coverage provisions.
- Sec. 17. Payment to providers of services.
- Sec. 18. Limit on premium increases due to late enrollment.
- Sec. 19. Reenrollment and open enrollment in part B.
- Sec. 20. Chiropractors' services.
- Sec. 21. Increase in outpatient mental health benefits under part B.
- Sec. 22. Limitation on payments to radiologists and pathologists.
- Sec. 23. Shortened part B termination period for certain individuals whose premiums medicare has ceased to pay.
- Sec. 24. Outpatient physical therapy services.
- Sec. 25. Medicare coverage of pneumococcal vaccine and its administration.
- Sec. 26. Medicare payment liability secondary in certain automobile insurance cases.
- Sec. 27. Hospital transfer requirement for skilled nursing facility coverage.
- Sec. 28. Outpatient surgery.
- Sec. 29. Technical renal disease amendments.
- Sec. 30. Preadmission diagnostic testing.
- Sec. 31. Studies and demonstration projects.
- Sec. 32. Provider reimbursement review board.
- Sec. 33. Access to books and records of subcontractors.

1                   HOME HEALTH SERVICES

2           SEC. 2. (a) Section 1811 of the Social Security  
3 Act is amended by striking out “and related post-  
4 hospital services” and inserting in lieu thereof “,  
5 related post-hospital, and home health services”.

6           (b) Section 1812(a)(3) of such Act is amended  
7 to read as follows:

8                   “(3) home health services.”.

9           (c) Section 1812(d) of such Act is repealed.

10          (d) Section 1812(e) of such Act is amended—

11               (1) by striking out “(b), (c), and (d)” and  
12 inserting in lieu thereof “(b) and (c)”; and

13               (2) by striking out “post-hospital ex-  
14 tended care services, and post-hospital home  
15 health services” and inserting in lieu thereof  
16 “and post-hospital extended care services”.

17          (e) Sections 1814(a) and 1835(a) of such Act  
18 are amended by adding the following new sentence  
19 at the end of each such section: “With respect to  
20 the physician certification required by paragraph  
21 (2) for home health services furnished to any indi-  
22 vidual by a home health agency (other than an  
23 agency which is a governmental entity) and with  
24 respect to the establishment and review of a plan  
25 for such services, the Secretary shall prescribe

1 regulations which shall become effective no later  
2 than June 30, 1980, and which prohibit a physician  
3 who has a significant ownership interest in, or a  
4 significant financial or contractual relationship  
5 with, such home health agency from performing  
6 such certification and from establishing or review-  
7 ing such plan.”.

8 (f) Section 1814(a)(2)(D) of such Act is  
9 amended—

10 (1) by striking out “post-hospital home  
11 health services” and inserting in lieu thereof  
12 “home health services”;

13 (2) by inserting “, occupational,” after  
14 “or physical”; and

15 (3) by striking out “, for any of the con-  
16 ditions” and all that follows through “ex-  
17 tended care services”.

18 (g) Section 1832(a)(2)(A) of such Act is  
19 amended by striking out “for up to 100 visits  
20 during a calendar year”.

21 (h) Section 1833(b) of such Act is amended—

22 (1) by striking out “and” at the end of  
23 clause (1) in the first sentence; and

24 (2) by striking out the period at the end  
25 of the first sentence and inserting in lieu

1       thereof the following: “, and (3) such deduct-  
2       ible shall not apply with respect to home  
3       health services.”.

4       (i) Section 1834 of such Act is repealed.

5       (j) Section 1835(a)(2)(A) of such Act is amend-  
6       ed by inserting “, occupational,” after “or physi-  
7       cal”.

8       (k) Section 1861(e) of such Act is amended—

9               (1) by striking out “subsections (i) and  
10       (n)” in the material preceding paragraph (1)  
11       and inserting in lieu thereof “subsection (i)”;  
12       and

13              (2) by striking out “subsections (i) and  
14       (n)” in the third sentence and inserting in  
15       lieu thereof “subsection (i)”.

16       (l) Section 1861(m)(4) of such Act is amended  
17       by inserting the following before the semicolon:  
18       “who has successfully completed a training pro-  
19       gram approved by the Secretary”.

20       (m) Section 1861(n) of such Act is repealed.

21       (n) Section 1861(o) of such Act is amended—

22              (1) by striking out “and” at the end of  
23       paragraph (5), by inserting “and” at the end  
24       of paragraph (6), and by adding the following  
25       new paragraph after paragraph (6):



1           “(7) meets such additional requirements  
2       (including conditions relating to bonding or  
3       establishing of escrow accounts as the Secre-  
4       tary finds necessary for the financial security  
5       of the program) as the Secretary finds neces-  
6       sary for the effective and efficient operation  
7       of the program;”; and

8           (2) by striking out “except that” the first  
9       time it appears in the material following  
10      paragraph (6) and all that follows through  
11      “regulations; and”.

12      (o) Section 1816(e) of such Act is amended—

13          (1) by inserting “(subject to the provi-  
14      sions of paragraph (4))” after “the Secretary  
15      may” in paragraph (2); and

16          (2) by adding the following new para-  
17      graph at the end thereof:

18      “(4) Notwithstanding subsections (a) and (d)  
19      and paragraphs (1), (2), and (3) of this subsection,  
20      the Secretary shall designate regional agencies or  
21      organizations which have entered into an agree-  
22      ment with him under this section to perform func-  
23      tions under such agreement with respect to home  
24      health agencies (as defined in section 1861(o)) in  
25      the region, except that in assigning such agencies

1 to such designated regional agencies or organiza-  
2 tions the Secretary shall assign a home health  
3 agency which is a subdivision of a hospital (and  
4 such agency and hospital are affiliated or under  
5 common control) only if, after applying such cri-  
6 teria relating to administrative efficiency and ef-  
7 fectiveness as he shall promulgate, he determines  
8 that such assignment would result in the more ef-  
9 fective and efficient administration of this title.”.

10 (p) Section 1861(v)(1) of such Act is amended  
11 by adding the following new subparagraph at the  
12 end thereof:

13 “(G) In determining such reasonable cost with  
14 respect to home health agencies, the Secretary  
15 may not include—

16 “(i) any costs incurred in connection  
17 with bonding or establishing an escrow ac-  
18 count by any such agency as a result of the  
19 financial security requirement described in  
20 subsection (o)(7);

21 “(ii) in the case of home health agencies  
22 to which the financial security requirement  
23 described in subsection (o)(7) applies, any  
24 costs attributed to interest charged such an  
25 agency in connection with amounts borrowed

1 by the agency to repay overpayments made  
2 under this title to the agency, except that  
3 such costs may be included in reasonable  
4 cost if the Secretary determines that the  
5 agency was acting in good faith in borrowing  
6 the amounts;

7 “(iii) in the case of contracts entered into  
8 by a home health agency after the date of en-  
9 actment of this subparagraph for the purpose  
10 of having services furnished for or on behalf  
11 of such agency, any cost incurred by such  
12 agency pursuant to any such contract (I)  
13 which is entered into for a period exceeding  
14 five years, or (II) which determines the  
15 amount payable by the home health agency  
16 on the basis of a percentage of the agency’s  
17 reimbursement or claim for reimbursement  
18 for services furnished by the agency; and

19 “(iv) in the case of contracts entered into  
20 by a home health agency before the date of  
21 enactment of this subparagraph for the pur-  
22 pose of having services furnished for or on  
23 behalf of such agency, any cost incurred by  
24 such agency pursuant to any such contract,  
25 which determines the amount payable by the

1       home health agency on the basis of a percent-  
2       age of the agency's reimbursement or claim  
3       for reimbursement for services furnished by  
4       the agency, to the extent that such cost ex-  
5       ceeds the reasonable value of the services fur-  
6       nished on behalf of such agency.”.

7       (q) Section 226(c)(1) of such Act is amended—

8               (1) by striking out “and post-hospital  
9       home health services” and inserting in lieu  
10       thereof “and home health services”; and

11              (2) by striking out “or post-hospital  
12       home health services” in clause (B).

13       (r) Section 7(d)(1) of the Railroad Retirement  
14       Act of 1974 is amended by striking out “posthospi-  
15       tal home health services” and inserting in lieu  
16       thereof “home health services”.

17       (s)(1) The amendments made by this section  
18       shall become effective with respect to services fur-  
19       nished on or after July 1, 1980, except that the  
20       amendments made by subsections (n) and (o) shall  
21       become effective on the date of the enactment of  
22       this Act.

23       (2) The Secretary shall take administrative  
24       action to assure that improvements, in accordance  
25       with the amendment made by subsection (n)(1),



1 will be made with respect to home health services  
2 by June 30, 1980.

3 ELIMINATION OF SECOND WAITING PERIOD FOR  
4 REENTITLED DISABILITY BENEFICIARIES

5 SEC. 3. (a)(1)(A) Section 226(b)(2) of the  
6 Social Security Act is amended by striking out  
7 “consecutive” in clauses (A) and (B).

8 (B) Section 226(b) of such Act is further  
9 amended by striking out “consecutive” in the  
10 matter following paragraph (2).

11 (2) Section 1811 of such Act is amended by  
12 striking out “consecutive”.

13 (3) Section 1837(g)(1) of such Act is amended  
14 by striking out “consecutive”.

15 (4) Section 7(d)(2)(ii) of the Railroad Retire-  
16 ment Act of 1974 is amended by striking out “con-  
17 secutive” each place it appears.

18 (b) Section 226 of the Social Security Act is  
19 amended by redesignating subsection (f) as sub-  
20 section (g), and by inserting after subsection (e)  
21 the following new subsection:

22 “(f) For purposes of subsection (b) (and for  
23 purposes of section 1837(g)(1) of this Act and sec-  
24 tion 7(d)(2)(ii) of the Railroad Retirement Act of  
25 1974), the 24 months for which an individual has

1 to have been entitled to specified monthly benefits  
2 on the basis of disability in order to become enti-  
3 tled to hospital insurance benefits on such basis  
4 effective with any particular month (or to be  
5 deemed to have enrolled in the supplementary  
6 medical insurance program, on the basis of such  
7 entitlement, by reason of section 1837(f)), where  
8 such individual had been entitled to specified  
9 monthly benefits of the same type during a previ-  
10 ous period which terminated—

11 “(1) more than 60 months before that  
12 particular month in any case where such  
13 monthly benefits were of the type specified in  
14 clause (A)(i) or (B) of subsection (b)(2), or

15 “(2) more than 84 months before that  
16 particular month in any case where such  
17 monthly benefits were of the type specified in  
18 clause (A)(ii) or (A)(iii) of such subsection,  
19 shall not include any month which occurred  
20 during such previous period.”.

21 (c) The amendments made by this section  
22 shall apply with respect to hospital insurance or  
23 supplementary medical insurance benefits for  
24 months after the month in which this Act is  
25 enacted.

1           REPORT ON COVERAGE OF MEDICARE

2           BENEFICIARIES OUTSIDE THE UNITED STATES

3           SEC. 4. (a) The Secretary of Health, Educa-  
4           tion, and Welfare shall provide for a study of—

5           (1) the number of individuals, entitled to  
6           benefits under title XVIII of the Social Secu-  
7           rity Act, who, because medical services were  
8           furnished to them while they were residing or  
9           traveling outside the United States, have been  
10          unable under such title to have payments  
11          made with respect to such services, and the  
12          approximate amount of such payments not  
13          provided, and

14          (2) the desirability and feasibility of the  
15          different alternatives, including reciprocal  
16          agreements between the United States and  
17          foreign nations, to provide for such benefits  
18          or comparable benefits for services furnished  
19          outside the United States.

20          (b) The Secretary shall report to the Congress,  
21          not later than one year after the date of the enact-  
22          ment of this Act, on such study and shall include  
23          in such report such recommendations for legisla-  
24          tive changes as may be appropriate.

## 1 DENTISTS' SERVICES

2 SEC. 5. (a) Clause (2) of the first sentence of  
3 section 1861(r) of the Social Security Act is  
4 amended to read as follows: "(2) a doctor of dental  
5 surgery or of dental medicine who is legally au-  
6 thorized to practice dentistry by the State in which  
7 he performs such function and who is acting  
8 within the scope of his license when he performs  
9 such functions,".

10 (b) Section 1814(a)(2)(E) of such Act is  
11 amended to read as follows:

12 "(E) in the case of inpatient hospital  
13 services in connection with the care, treat-  
14 ment, filling, removal, or replacement of  
15 teeth or structures directly supporting teeth,  
16 the individual, because of his underlying  
17 medical condition and clinical status or be-  
18 cause of the severity of the dental procedure,  
19 requires hospitalization in connection with  
20 the provision of such services;

21 (c) Section 1862(a)(12) of such Act is amended  
22 by inserting "or because of the severity of the  
23 dental procedure" after "clinical status".



**TREATMENT OF PLANTAR WARTS**

**SEC. 6.** Section 1862(a)(13)(C) of the Social Security Act is amended by striking out “, warts,”.

**COMMUNITY MENTAL HEALTH CENTERS**

**SEC. 7. (a)** Section 1832(a)(2) of the Social Security Act is amended by striking out “and” at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon, and by adding the following new subparagraph at the end thereof:

“(E) community mental health center services;”.

**(b)** Section 1832(a)(2)(B)(i) of such Act is amended by striking out “or” at the end of subclause (I), by striking out “and” at the end of subclause (II) and inserting in lieu thereof “or”, and by adding the following new subclause after subclause (II):

“(III) a physician to a patient in a community mental health center or to a patient in a comprehensive outpatient rehabilitation facility; and”.

**(c)** Section 1833(c) of such Act is amended by inserting “and not a patient of a community mental health center” after “of a hospital”.

1 (d) Title XVIII of such Act is amended by  
2 adding the following new section after section  
3 1833:

4 "LIMITATION ON COMMUNITY MENTAL HEALTH  
5 CENTER SERVICES

6 "SEC. 1834. Payment under this part may be  
7 made for community mental health center services  
8 furnished an individual for—

9 "(1) up to 15 outpatient visits during any  
10 calendar year; and

11 "(2) up to 60 partial hospitalization visits  
12 to such a center during any calendar year.

13 Services shall be taken into account for purposes  
14 of paragraphs (1) and (2) only if payment is or  
15 would be, except for this section or the failure to  
16 comply with the request and certification require-  
17 ments of or under section 1835(a), made with re-  
18 spect to such services under this part."

19 (e) Section 1835(a)(2) of such Act is amended  
20 by striking out the period at the end of subpara-  
21 graph (D) and inserting in lieu thereof a semi-  
22 colon, and by inserting the following new subpara-  
23 graph after subparagraph (D):

24 "(E) in the case of community  
25 mental health center services, (i) such

1 services are or were required in connec-  
2 tion with the treatment of mental, psy-  
3 choneurotic, or personality disorders, (ii)  
4 a plan for furnishing such services has  
5 been established by a physician (as de-  
6 fined in section 1861(r)(1)) or qualified  
7 mental health professional (as defined in  
8 section 1861(bb)(3)) and is periodically  
9 reviewed and approved by a physician,  
10 (iii) such services are or were furnished  
11 while the individual is or was under the  
12 case management of a physician (as de-  
13 fined in section 1861(r)(1)), and (iv) in  
14 the case of services provided with respect  
15 to a partial hospitalization visit, the indi-  
16 vidual would otherwise require or have  
17 required (in the professional judgment of  
18 such physician) inpatient psychiatric  
19 services;”.

20 (f) Section 1861(l) of such Act is amended by  
21 inserting “or community mental health center”  
22 after “nursing facility” each time it appears  
23 therein.

1 (g) Section 1861(u) of such Act is amended by  
2 inserting “community mental health center,” after  
3 “home health agency,”.

4 (h) Section 1861(w)(1) of such Act is amended  
5 by inserting “community mental health center,”  
6 after “nursing facility,”.

7 (i) Section 1861 of such Act is amended by  
8 adding the following new subsection at the end  
9 thereof:

10 “Community Mental Health Center Services

11 “(bb)(1) The term ‘community mental health  
12 center services’ means the following items and  
13 services furnished to an individual as an outpa-  
14 tient by a community mental health center or (to  
15 the extent permitted in regulations by the Secre-  
16 tary) by others under arrangements with them  
17 made by the center—

18 “(A) diagnostic, therapeutic, or rehabili-  
19 tative services furnished at the facility and  
20 crisis intervention outside the facility, when  
21 furnished by a physician (as defined in sub-  
22 section (r)(1)) or a qualified mental health  
23 professional (as defined in paragraph (3));



1           “(B) drugs and biologicals which cannot,  
2       as determined in accordance with regula-  
3       tions, be self-administered; and

4           “(C) such items and supplies as are ordi-  
5       narily furnished to outpatients by community  
6       mental health centers in connection with an  
7       active mental health program of diagnosis  
8       and treatment,

9       excluding, however, any item or service if it would  
10      not be included under subsection (b) if furnished  
11      to an inpatient of a hospital.

12       “(2) The term ‘community mental health  
13      center’ means a facility which—

14           “(A) meets the definition of a community  
15       mental health center under section 201 of the  
16       Community Mental Health Centers Act and  
17       the regulations prescribed thereunder;

18           “(B) has a requirement that all mental  
19       health services are provided under the super-  
20       vision of a physician or other qualified  
21       mental health professional;

22           “(C) meets such requirements as the Sec-  
23       retary may prescribe with respect to staffing  
24       requirements and qualifications of the staff;

1           “(D) maintains clinical records on all  
2 patients;

3           “(E) has in effect a utilization review  
4 plan in accordance with regulations pre-  
5 scribed by the Secretary;

6           “(F) has in effect an agreement with a  
7 hospital pursuant to subsection (1);

8           “(G) in the case of a community mental  
9 health center in any State in which State or  
10 applicable local law provides for the licensing  
11 of community mental health centers, is li-  
12 censed pursuant to such law;

13           “(H) has appropriate procedures or ar-  
14 rangements (in compliance with applicable  
15 State and Federal law) for storing, adminis-  
16 tering, and dispensing drugs and biologicals;  
17 and

18           “(I) meets such other conditions of par-  
19 ticipation as the Secretary may find neces-  
20 sary in the interest of the health and safety  
21 of individuals who are furnished services by  
22 such center.

23           “(3) The term ‘qualified mental health profes-  
24 sional’ means a clinical psychologist, psychiatric  
25 nurse, or psychiatric social worker who has such

1 qualifications as the Secretary shall establish by  
2 regulation.”.

3 (j) Section 1864(a) of such Act is amended—

4 (1) by inserting “, or whether a facility  
5 therein is a community mental health center  
6 as defined in section 1861(bb)(2)” before the  
7 period at the end of the first sentence;

8 (2) by inserting “or a community mental  
9 health center” after “home health agency” in  
10 the second sentence; and

11 (3) by inserting “community mental  
12 health center,” after “laboratory,” each time  
13 it appears in the fifth sentence.

14 (k) The amendments made by this section  
15 shall become effective with respect to a com-  
16 munity mental health center’s first accounting  
17 period which begins on or after March 1, 1980.

18 (l) The Secretary of Health, Education, and  
19 Welfare shall submit a report, not later than  
20 twenty-four months after the date of the enact-  
21 ment of this Act, to the Congress recommending a  
22 definition of an outpatient mental health center  
23 which could be used to broaden the definition of  
24 community mental health center as established by  
25 the amendments made by this section, especially

1 the part of that definition which requires that  
2 such a center meet the definition of section 201 of  
3 the Community Mental Health Centers Act.

## 4 COMPREHENSIVE OUTPATIENT REHABILITATION

## 5 FACILITY SERVICES

6 SEC. 8. (a) Section 1832(a)(2) of the Social Se-  
7 curity Act is amended by adding the following new  
8 subparagraph at the end thereof after the new sub-  
9 paragraph added by section 7(a) of this Act:

10                   “(F) comprehensive outpatient reha-  
11                   bilitation facility services; and”.

(b) Section 1835(a)(2) of such Act is amended by inserting the following new subparagraph at the end thereof after the new subparagraph added by section 7(e) of this Act:

“(F) in the case of comprehensive outpatient rehabilitation facility services, (i) such services are or were required because the individual needed skilled rehabilitation services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician; and”.



1       (c) Section 1861(u) of such Act is amended by  
2 inserting “comprehensive outpatient rehabilita-  
3 tion facility,” immediately after “skilled nursing  
4 facility,”.

5       (d) Section 1861(z) of such Act is amended by  
6 striking out “extended care facility,” and inserting  
7 in lieu thereof “skilled nursing facility, compre-  
8 hensive outpatient rehabilitation facility,”.

9       (e) Section 1861 of such Act is amended by  
10 adding the following new subsection at the end  
11 thereof after the new subsection added by section  
12 7(i) of this Act:

13       “Comprehensive Outpatient Rehabilitation  
14                               Facility Services

15       “(cc)(1) The term ‘comprehensive outpatient  
16 rehabilitation facility services’ means the follow-  
17 ing items and services furnished by a physician or  
18 other qualified professional personnel (as defined  
19 in regulations by the Secretary) to an individual  
20 who is an outpatient of a comprehensive outpa-  
21 tient rehabilitation facility under a plan (for fur-  
22 nishing such items and services to such individ-  
23 ual) established and periodically reviewed by a  
24 physician—

25               “(A) physicians’ services;

1           “(B) physical therapy, occupational ther-  
2           apy, speech pathology services, and respira-  
3           tory therapy;

4           “(C) prosthetic and orthotic devices, in-  
5           cluding testing, fitting, or training in the use  
6           of prosthetic and orthotic devices;

7           “(D) social and psychological services;

8           “(E) nursing care provided by or under  
9           the supervision of a registered professional  
10          nurse;

11          “(F) drugs and biologicals which cannot,  
12          as determined in accordance with regula-  
13          tions, be self-administered;

14          “(G) supplies, appliances, and equipment,  
15          including the purchase or rental of equip-  
16          ment; and

17          “(H) such other items and services as are  
18          medically necessary for the rehabilitation of  
19          the patient and are ordinarily furnished by  
20          comprehensive outpatient rehabilitation  
21          facilities,

22          excluding, however, any item or service if it would  
23          not be included under subsection (b) if furnished  
24          to an outpatient of a hospital.

1       “(2) The term ‘comprehensive outpatient reha-  
2   bilitation facility’ means a facility which—

3           “(A) is primarily engaged in providing  
4       (by or under the supervision of physicians)  
5       diagnostic, therapeutic, and restorative serv-  
6       ices to outpatients for the rehabilitation of  
7       injured, disabled, or sick persons;

8           “(B) provides at least the following com-  
9       prehensive outpatient rehabilitation services:  
10      (i) physicians’ services (rendered by physi-  
11      cians, as defined in section 1861(r)(1), who  
12      are available at the facility on a full- or part-  
13      time basis); (ii) physical therapy; and (iii)  
14      social or psychological services;

15          “(C) maintains clinical records on all  
16      patients;

17          “(D) has policies established by a group  
18      of professional personnel (associated with the  
19      facility), including one or more physicians  
20      defined in subsection (r)(1) to govern the  
21      comprehensive outpatient rehabilitation serv-  
22      ices it furnishes, and provides for the carry-  
23      ing out of such policies by a full- or part-time  
24      physician referred to in subparagraph (B)(i);

1           “(E) has a requirement that every patient  
2           must be under the care of a physician;

3           “(F) in the case of a facility in any State  
4           in which State or applicable local law pro-  
5           vides for the licensing of facilities of this  
6           nature (i) is licensed pursuant to such law, or  
7           (ii) is approved by the agency of such State  
8           or locality, responsible for licensing facilities  
9           of this nature, as meeting the standard estab-  
10          lishment for such licensing;

11          “(G) has in effect a utilization review  
12          plan in accordance with regulations pre-  
13          scribed by the Secretary;

14          “(H) has in effect an overall plan and  
15          budget that meets the requirements of subsec-  
16          tion (z); and

17          “(I) meets such other conditions of par-  
18          ticipation as the Secretary may find neces-  
19          sary in the interest of the health and safety  
20          of individuals who are furnished services by  
21          such facility, including conditions concern-  
22          ing qualifications of personnel in these  
23          facilities.”.



1 (f) Section 1863 of such Act is amended by  
 2 striking out “and (o)(6)” in the first sentence and  
 3 inserting in lieu thereof “(o)(6), and (cc)(2)(I)”.

4 (g) Section 1864(a) of such Act is amended—

5 (1) by inserting “or a comprehensive out-  
 6 patient rehabilitation facility as defined in  
 7 section 1861(cc)(2)” after “section  
 8 1861(aa)(2)” in the first sentence; and

9 (2) by inserting “comprehensive out-  
 10 patient rehabilitation facility,” after “rural  
 11 health clinic,” each time it appears in the  
 12 second and fifth sentences.

13 (h) The amendments made by this section  
 14 shall become effective with respect to a compre-  
 15 hensive outpatient rehabilitation facility’s first ac-  
 16 counting period which begins on or after March 1,  
 17 1980.

#### 18 OPTOMETRISTS’ SERVICES

19 SEC. 9. (a) Clause (4) of the first sentence of  
 20 section 1861(r) of the Social Security Act is  
 21 amended by striking out “but only with respect to  
 22 establishing the necessity for prosthetic lenses,”  
 23 and inserting in lieu thereof “but only with respect  
 24 to services related to the treatment of aphakia,”.

(b) The Secretary of Health, Education, and Welfare shall submit to the Congress by June 1, 1980, legislative recommendations with respect to reimbursement under title XVIII of the Social Security Act for services furnished by optometrists in connection with cataracts and such other services which they are legally authorized to perform.

## ANTIGENS

9 SEC. 10. Section 1861(s)(2) of the Social Secu-  
10 rity Act is amended by striking out “and” at the  
11 end of subparagraph (E), by inserting “and” at the  
12 end of subparagraph (F), and by inserting the fol-  
13 lowing new subparagraph after subparagraph (F):

“(G) antigens (subject to quantity limitations prescribed in regulations by the Secretary) prepared by a physician, as defined in section 1861(r)(1), for a particular patient, including antigens so prepared which are forwarded to another qualified person (including a rural health clinic) for administration to such patient, from time to time, by or under the supervision of another such physician;”.

**PAYMENT WHERE BENEFICIARY NOT AT FAULT**

**SEC. 11. Section 1879 of the Social Security Act is amended by adding the following new subsection at the end thereof:**

**“(e) Where payment for inpatient hospital services or extended care services may not be made under part A of this title on behalf of an individual entitled to benefits under such part solely because of an unintentional, inadvertent, or erroneous action with respect to the transfer of such individual from a hospital or skilled nursing facility that meets the requirements of section 1861 (e) or (j) by such a provider of services acting in good faith in accordance with the advice of a utilization review committee, professional standards review organization, or fiscal intermediary, or on the basis of a clearly erroneous administrative decision by a provider of services, the Secretary shall take such action with respect to the payment of such benefits as he determines may be necessary to correct the effects of such unintentional, inadvertent, or erroneous action.”.**

1     FLEXIBILITY IN APPLICATION OF STANDARDS TO  
2                                   RURAL HOSPITALS

3       SEC. 12. Section 1861(e) of the Social Security  
4 Act is amended by adding the following new sen-  
5 tence at the end thereof: "The term 'hospital' also  
6 includes a facility of fifty beds or less which is lo-  
7 cated in an area determined by the Secretary to  
8 meet the definition relating to a rural area de-  
9 scribed in subparagraph (A) of paragraph (5) of  
10 this subsection and which meets the other require-  
11 ments of this subsection, except that—

12           “(A) with respect to the requirements for  
13 nursing services applicable after December  
14 31, 1978, such requirements shall provide for  
15 temporary waiver of the requirements, for  
16 such period as the Secretary deems appropri-  
17 ate, where (i) the facility's failure to fully  
18 comply with the requirements is attributable  
19 to a temporary shortage of qualified nursing  
20 personnel in the area in which the facility is  
21 located, (ii) a registered professional nurse is  
22 present on the premises to render or super-  
23 vise the nursing service provided during at  
24 least the regular daytime shift, and (iii) the  
25 Secretary determines that the employment of



1     such nursing personnel as are available to  
2     the facility during such temporary period will  
3     not adversely affect the health and safety of  
4     patients;

5           “(B) with respect to the health and safety  
6     requirements promulgated under paragraph  
7     (9), such requirements shall be applied by the  
8     Secretary to a facility herein defined in such  
9     manner as to assure that personnel require-  
10    ments take into account the availability of  
11    technical personnel and the educational op-  
12    portunities for technical personnel in the  
13    area in which such facility is located, and the  
14    scope of services rendered by such facility;  
15    and the Secretary, by regulations, shall pro-  
16    vide for the continued participation of such a  
17    facility where such personnel requirements  
18    are not fully met, for such period as the Sec-  
19    retary determines that (i) the facility is  
20    making good faith efforts to fully comply  
21    with the personnel requirements, and (ii) the  
22    employment by the facility of such personnel  
23    as are available to the facility will not ad-  
24    versely affect the health and safety of pa-  
25    tients; and

1           “(C) with respect to the fire and safety  
2       requirements promulgated under paragraph  
3       (9), the Secretary may (i) waive, for such  
4       period as he deems appropriate, specific pro-  
5       visions of such requirements which if rigidly  
6       applied would result in unreasonable hard-  
7       ship for such a facility and which, if not ap-  
8       plied, would not jeopardize the health and  
9       safety of patients, and (ii) may accept a fa-  
10      cility’s compliance with all applicable State  
11      codes relating to fire and safety in lieu of  
12      compliance with the fire and safety require-  
13      ments promulgated under paragraph (9), if he  
14      determines that such State has in effect fire  
15      and safety codes, imposed by State law,  
16      which adequately protect patients.”.

17       **CERTIFICATION AND UTILIZATION REVIEW BY**  
18                               **PODIATRISTS**

19       **SEC. 13. (a) Section 1861(r)(3) of the Social Se-**  
20      **curity Act is amended to read as follows: “(3) a**  
21      **doctor of podiatric medicine for the purposes of**  
22      **subsection (s) of this section but only with respect**  
23      **to functions which he is legally authorized to per-**  
24      **form as such by the State in which he performs**  
25      **them; and for the purposes of subsections (k) and**

1 (m) of this section and sections 1814(a) and 1835  
2 but only if his performance of functions under  
3 subsections (k) and (m) and sections 1814(a) and  
4 1835 is consistent with the policy of the institution  
5 or agency with respect to which he performs them  
6 and with the functions which he is legally author-  
7 ized to perform.”.

8 (b) Section 1861(k)(2)(A) of such Act is  
9 amended by inserting after “two or more physi-  
10 cians” the following: “(of which at least two must  
11 be physicians described in subsection (r)(1) of this  
12 section)”.

13 **PHYSICIAN TREATMENT PLAN FOR SPEECH**

14 **PATHOLOGY**

15 **SEC. 14.** Section 1835(a)(2)(D)(ii) of the Social  
16 Security Act is amended by inserting after “estab-  
17 lished” the following: “by a physician or by the  
18 speech pathologist providing such services”.

19 **PAYMENT FOR PHYSICIANS’ SERVICES WHERE**  
20 **BENEFICIARY HAS DIED**

21 **SEC. 15.** (a) Section 1870(f) of the Social Secu-  
22 rity Act is amended to read as follows:

23 “(f) If an individual who received medical and  
24 other health services for which payment may be  
25 made under section 1832(a)(1) dies, and no assign-

1 ment of the right to payment for such services was  
2 made by such individual before his death, and pay-  
3 ment for such services has not been made—

4 “(1) if the person or persons who fur-  
5 nished the services agree that the reasonable  
6 charge is the full charge for the services, pay-  
7 ment for such services shall be made to such  
8 person or persons, and

9 “(2) if the person or persons who fur-  
10 nished the services do not agree that the rea-  
11 sonable charge is the full charge for the serv-  
12 ices, payment for such services shall be made  
13 on the basis of an itemized bill to the person  
14 who has agreed to assume the legal obliga-  
15 tion to make payment for such services and  
16 files a request for payment (with such accom-  
17 panying evidence of such legal obligation as  
18 may be required in regulations),

19 but only in such amount and subject to such con-  
20 ditions as would be applicable if the individual  
21 who received the services had not died.”.

22 (b) The amendment made by this section shall  
23 apply only to claims filed on or after the date of  
24 the enactment of this Act.



**PRESUMED COVERAGE PROVISIONS**

**SEC. 16. (a)** Section 1814 of the Social Security Act is amended by striking out subsections (h) and (i) and by redesignating subsection (j) as subsection (h).

**(b)** Section 1814(c) of such Act is amended by striking out “subsection (j)” and inserting in lieu thereof “subsection (h)”.

**PAYMENT TO PROVIDERS OF SERVICES**

**SEC. 17. (a)** Section 1814(b) of the Social Security Act is amended to read as follows:

**“(b)** The amount paid to any provider of services with respect to services for which payment may be made under this part shall, subject to the provisions of section 1813, be the reasonable cost of such services, as determined under section 1861(v) and as further limited by section 1881(b)(2)(B).”.

**(b)** Section 1833(a) of such Act is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

**“(2)** in the case of services described in section 1832(a)(2) (except those services described in subparagraphs (D), (E), (F), and

1 (G) of such section and in paragraph (5) of  
2 this subsection)—

3 “(A) with respect to home health  
4 services, the reasonable cost of such serv-  
5 ices, as determined under section 1861(v);

6 “(B) with respect to other services  
7 (except those described in subparagraph  
8 (C) of this paragraph), the reasonable  
9 costs of such services, as so determined,  
10 less the amount a provider may charge as  
11 described in clause (ii) of section  
12 1866(a)(2)(A), but in no case may the  
13 payment for such other services exceed  
14 80 percent of such costs;

15 “(C) with respect to services de-  
16 scribed in the second sentence of section  
17 1861(p), 80 percent of the reasonable  
18 charges for such services;

19 “(3) in the case of services described in  
20 subparagraphs (D), (E), and (F) of section  
21 1832(a)(2), the costs which are reasonable  
22 and related to the cost of furnishing such  
23 services or which are based on such other  
24 tests of reasonableness as the Secretary may  
25 prescribe in regulations, including those au-

1       thorized under section 1861(v)(1)(A), less the  
2       amount a provider may charge as described  
3       in clause (ii) of section 1866(a)(2)(A), but in  
4       no case may the payment for such services  
5       exceed 80 percent of such costs; and

6       “(4) in the case of facility services de-  
7       scribed in subparagraph (G) of section  
8       1832(a)(2), the applicable amount described  
9       in subparagraph (A) of section 1833(i)(2); and

10       “(5) in the case of preadmission diagnos-  
11       tic services described in section 1861(s)(2)(C)  
12       which are furnished to an individual by the  
13       outpatient department of a hospital within 7  
14       days of such individual’s admission to the  
15       same hospital as an inpatient or (to the  
16       extent practicable as determined by regula-  
17       tions prescribed by the Secretary) to another  
18       hospital, the reasonable costs for such  
19       services.”.

20       (c) The amendments made by this section  
21       shall apply to services furnished on or after Janu-  
22       ary 1, 1980.

1        **LIMIT ON PREMIUM INCREASES DUE TO LATE**  
2        **ENROLLMENT**

**SEC. 18. The first sentence of section 1839(d) of the Social Security Act is amended by inserting the following immediately before the period at the end thereof: “; except that in no case may the total amount of such increase exceed 30 percent of such monthly premium so determined”.**

9 REENROLLMENT AND OPEN ENROLLMENT  
10 IN PART B

11 SEC. 19. (a) Subsection (b) of section 1837 of  
12 the Social Security Act is repealed.

13       **(b)(1) Subsection (e) of section 1837 of such**  
14 **Act is amended to read as follows:**

15       “(e) There shall be a general enrollment  
16 period which is any period described in subsection  
17 (c).”.

18       (2) Subsection (g)(3) of such section is  
19 amended by striking out “the earlier of the then  
20 current” and all that follows through “subsection  
21 (e) of this section)” and inserting in lieu thereof  
22 “the month in which the individual files an appli-  
23 cation establishing such entitlement”.



1 (c)(1) Section 1838(a)(2)(E) of such Act is  
2 amended by striking out “the July 1” and inserting  
3 in lieu thereof “the first day of the third month”.

4 (2) The second sentence of subsection (d) of  
5 section 1839 of such Act is amended by striking  
6 out “who enrolls for the second time) (2)” and all  
7 that follows through “in which he enrolled for the  
8 second time” and inserting in lieu thereof “who  
9 enrolls) (2) the months which elapsed between the  
10 date of termination of a previous enrollment and  
11 the date of the subsequent reenrollment”.

12 **CHIROPRACTORS’ SERVICES**

13 **SEC. 20.** (a) Section 1861(r)(5) of the Social Se-  
14 curity Act is amended by striking out “demon-  
15 strated by X-ray to exist” and inserting in lieu  
16 thereof “demonstrated by X-ray or other chiro-  
17 practic clinical findings to exist”.

18 (b) Section 1861(s)(3) of such Act is amended  
19 by inserting “(A)” after “(3)”, and by adding the  
20 following new subparagraph at the end thereof:

21 “(B) diagnostic X-ray tests which are fur-  
22 nished by a physician described in subsection  
23 (r)(5) and which are reasonable and neces-  
24 sary in the diagnosis of a subluxation of the  
25 spine;”.

1           INCREASE IN OUTPATIENT MENTAL HEALTH

2                           BENEFITS UNDER PART B

3           SEC. 21. (a)(1) Section 1833(c) of the Social Se-  
4   curity Act is amended—

5                   (A) by striking out “there” and inserting  
6           in lieu thereof “not more than \$937.50”; and

7                   (B) by striking out everything after “sub-  
8           sections (a) and (b)” and inserting in lieu  
9           thereof a period.

10          (2) Section 1866(a)(2)(A) of such Act is  
11   amended by striking out the last sentence.

12          (3) The amendments made by this subsection  
13   apply to expenses incurred in calendar years be-  
14   ginning after the date of the enactment of this Act.

15          (b)(1) Section 1861(r) of such Act is amended  
16   by striking out “or” at the end of clauses (3) and  
17   (4) of the first sentence and by inserting the fol-  
18   lowing before the period at the end of the first sen-  
19   tence: “, or (6) a clinical psychologist who is li-  
20   censed as such by the State (or in a State which  
21   does not license clinical psychologists as such, is  
22   legally authorized to perform the services of a  
23   clinical psychologist in the jurisdiction in which  
24   he performs such services) and who meets uni-  
25   form minimum requirements prescribed by the

1 Secretary, but only for the purpose of section  
2 1861(s)(1) and section 1835(a)(2)(B)(ii) and only  
3 with respect to the treatment of an individual who  
4 is not an inpatient of a hospital (as defined in sub-  
5 section (e) or (f) of this section), was referred to  
6 the psychologist by a physician described in clause  
7 (1), and is receiving such services in connection  
8 with the treatment of mental, psychoneurotic, or  
9 personality disorders and only with respect to  
10 services which such clinical psychologist is legally  
11 authorized to perform by the State or jurisdiction  
12 in which such services are furnished”.

13 (2) Section 1835(a)(2)(B) of such Act is  
14 amended—

15 (A) by inserting “(i)” before “in the case  
16 of”;

17 (B) by striking out “and” at the end  
18 thereof; and

19 (C) by adding the following at the end  
20 thereof:

21 “(ii) in the case of services furnished  
22 by a physician described in section  
23 1861(r)(6) to an individual described in  
24 such section, such services are or were  
25 required for the treatment of mental,

1           psychoneurotic, or personality disor-  
2           ders;”.

3   LIMITATION ON PAYMENTS TO RADIOLOGISTS AND  
4                           PATHOLOGISTS

5       SEC. 22. (a) Subsections (a)(1)(B) and (b)(2) of  
6 section 1833 of the Social Security Act are each  
7 amended by inserting after “pathology” the fol-  
8 lowing: “who has in effect an agreement with the  
9 Secretary by which the physician agrees to accept  
10 an assignment (as provided for in section  
11 1842(b)(3)(B)(ii)) for all physicians’ services fur-  
12 nished by him for hospital inpatients enrolled  
13 under this part”.

14       (b) The amendments made by subsection (a)  
15 shall apply to services furnished after the sixth  
16 calendar month beginning after enactment of this  
17 Act.

18 SHORTENED PART B TERMINATION PERIOD FOR  
19       CERTAIN INDIVIDUALS WHOSE PREMIUMS MED-  
20       ICAID HAS CEASED TO PAY

21       SEC. 23. (a) Section 1843(e) of the Social Secu-  
22 rity Act is amended by adding at the end thereof  
23 the following: “The coverage period under this  
24 part of any such individual who (in the last month  
25 of his coverage period attributable to the State



1 agreement or in any of the following six months)  
2 files notice that he no longer wishes to participate  
3 in the insurance program established by this part,  
4 shall terminate at the close of the month in which  
5 the notice is filed.”.

6 (b) The second sentence of section 1838(b) of  
7 such Act is amended by inserting “(except as oth-  
8 erwise provided in section 1843(e))” after “shall”.

9 (c) Section 1843(g)(2) of such Act is  
10 amended—

11 (1) by adding “and” at the end of clause  
12 (A);

13 (2) by striking out “, and” at the end of  
14 clause (B) and inserting in lieu thereof a  
15 period; and

16 (3) by striking out clause (C).

17 (d) The amendments made by this section  
18 apply to notices filed after the third calendar  
19 month beginning after the date of the enactment  
20 of this Act.

21 (e) The coverage period under part B of title  
22 XVIII of the Social Security Act of an individual  
23 whose coverage period attributable to a State  
24 agreement under section 1843 of such Act is termi-  
25 nated and who has filed notice before the end of

1 the third calendar month beginning after the date  
 2 of the enactment of this Act that he no longer  
 3 wishes to participate in the insurance program es-  
 4 tablished by part B of title XVIII shall terminate  
 5 on the earlier of (1) the day specified in section  
 6 1838 without the amendments made by this sec-  
 7 tion, or (2) (unless the individual files notice  
 8 before the day specified in this clause that he  
 9 wishes his coverage period to terminate as pro-  
 10 vided in clause (1)) the day on which his coverage  
 11 period would terminate if the individual filed  
 12 notice in the fourth calendar month beginning  
 13 after the date of the enactment of this Act.

#### 14       OUTPATIENT PHYSICAL THERAPY SERVICES

15       SEC. 24. (a) Section 1833(g) of the Social Secu-  
 16 rity Act, as added by section 251(a)(2) of Public  
 17 Law 92-603, is amended by striking out "\$100" and  
 18 inserting in lieu thereof "\$500".

19       (b) Subsection (g) of section 1833 of such Act,  
 20 as added by section 279(b) of Public Law 92-603, is  
 21 redesignated as subsection (h).

#### 22       MEDICARE COVERAGE OF PNEUMOCOCCAL

#### 23       VACCINE AND ITS ADMINISTRATION

24       SEC. 25. (a)(1) Section 1861(s) of the Social Se-  
 25 curity Act is amended—

1           (A) by redesignating paragraphs (10)  
2 through (13) as paragraphs (11) through (14),  
3 respectively;

4           (B) by striking out “and” at the end of  
5 paragraph (8);

6           (C) by striking out the period at the end  
7 of paragraph (9) and inserting in lieu thereof  
8 “; and”; and

9           (D) by inserting after paragraph (9) the  
10 following new paragraph:

11           “(10) pneumococcal vaccine and its ad-  
12 ministration.”.

13       (2) Section 1864(a) of such Act is amended by  
14 striking out “paragraphs (10) and (11) of section  
15 1861(s)” and inserting in lieu thereof “paragraphs  
16 (11) and (12) of section 1861(s)”.

17       (3) Section 1862(a) of such Act is amended—

18           (A) by inserting “, or, in the case of items  
19 and services described in section 1861(s)(10),  
20 which are not reasonable and necessary for  
21 the prevention of illness” before the semi-  
22 colon at the end of paragraph (1), and

23           (B) by inserting “(except as otherwise al-  
24 lowed under section 1861(s)(10) and para-

1 graph (1))” in paragraph (7) after “immuni-  
2 zations”.

3 (b)(1) Section 1833(a) of such Act (as amended  
4 by sections 17(b) and 30(a) of this Act) is  
5 amended—

6 (A) by striking out “and” before “(F)” in  
7 paragraph (1);

8 (B) by inserting at the end of paragraph  
9 (1) the following: “and (G) with respect to  
10 items and services described in section  
11 1861(s)(10), the amounts paid shall be 100  
12 percent of the reasonable charges for such  
13 items and services, and”;

14 (C) by inserting “and to items and serv-  
15 ices described in section 1861(s)(10)” in para-  
16 graph (2)(A) after “home health services”;  
17 and

18 (D) by inserting “(other than for items  
19 and services described in section 1861(s)(10))”  
20 after “but in no case may the payment for  
21 such services”.

22 (2) The first sentence of section 1833(b) of  
23 such Act is amended by inserting “(A)” in clause  
24 (2) after “expenses incurred for”, and by inserting  
25 before the comma at the end of such clause the



1 following: “, or (B) for items and services de-  
2 scribed in section 1861(s)(10)”.

3 (3) Subparagraph (A) of section 1861(aa)(1) of  
4 such Act is amended by inserting before the  
5 comma at the end the following: “and items and  
6 services described in section 1861(s)(10)”.

7 (c) The amendments made by this section  
8 shall apply to services furnished on or after July 1,  
9 1980.

10 **MEDICARE PAYMENT LIABILITY SECONDARY IN**

11 **CERTAIN AUTOMOBILE INSURANCE CASES**

12 **SEC. 26.** Section 1862(b) of the Social Security  
13 Act is amended—

14 (1) by inserting “or under an automobile  
15 insurance policy” before the period at the  
16 end of the first sentence thereof; and

17 (2) by inserting “or policy” before the  
18 period at the end of the second sentence  
19 thereof.

20 **HOSPITAL TRANSFER REQUIREMENT FOR SKILLED**

21 **NURSING FACILITY COVERAGE**

22 **SEC. 27.** Section 1861(i) of the Social Security  
23 Act is amended—

1           (1) by striking out “14 days” each place it  
2           appears therein and inserting in lieu thereof  
3           “30 days”; and

4           (2) by striking out “, or (B) within 28  
5           days” and all that follows through “he re-  
6           sides, or (C)” and inserting in lieu thereof “,  
7           or (B)”.

8           OUTPATIENT SURGERY

9           SEC. 28. (a) Section 1832(a) of the Social Secu-  
10          rity Act is amended by adding the following new  
11          subparagraph at the end of paragraph (2) after the  
12          new subparagraphs added by sections 7(a) and  
13          8(a) of this Act:

14               “(G) facility services furnished in  
15               connection with surgical procedures  
16               specified by the Secretary pursuant to  
17               section 1833(i)(1) and performed in an  
18               ambulatory surgical center (which meets  
19               health, safety, and other standards speci-  
20               fied by the Secretary in regulations).”.

21          (b) Section 1833 of such Act is amended by  
22          adding the following new subsection at the end  
23          thereof:

24               “(i)(1) The Secretary shall, in consultation  
25          with the National Professional Standards Review

1 Council and appropriate medical organizations,  
2 specify surgical procedures which are appro-  
3 priately (when considered in terms of the proper  
4 utilization of hospital inpatient facilities) per-  
5 formed on an inpatient basis in a hospital but  
6 which also can be performed safely on an ambula-  
7 tory basis in an ambulatory surgical center or hos-  
8 pital outpatient department.

9       “(2)(A) The amount of payment to be made  
10 for facility services furnished in connection with  
11 surgical procedures specified pursuant to para-  
12 graph (1) and furnished to an individual in an am-  
13 bulatory surgical center shall be equal to an  
14 amount established by the Secretary with respect  
15 to each such procedure which (i) takes into ac-  
16 count the costs incurred by such centers, or  
17 classes of centers, generally in providing the serv-  
18 ices appropriate for the performance of such serv-  
19 ices, and (ii) takes such costs into account in such  
20 a manner which will assure that the performance  
21 of the service in such an ambulatory surgical  
22 center will result in substantially less amounts  
23 paid under this title than would have been paid if  
24 the services had been furnished on an inpatient  
25 basis. The amount so established shall be reviewed

1 periodically and may be adjusted, when appropri-  
2 ate, to take account of varying conditions in dif-  
3 ferent areas.

4       “(B) The amount of payment to be made  
5 under this part for services (including all pre- and  
6 post-operative services) described in paragraphs  
7 (1) and (2)(A) of section 1861(s) and furnished in  
8 connection with surgical procedures (specified  
9 pursuant to paragraph (1) of this subsection) in an  
10 ambulatory surgical center or a hospital outpa-  
11 tient department shall be the reasonable charge  
12 for such services if the physician accepts an as-  
13 signment, as provided for in section  
14 1842(b)(3)(B)(ii), with respect to such payment.”.

15       (c) Section 1835(a)(2) of such Act is amended  
16 by adding the following new subparagraph at the  
17 end thereof after the subparagraphs added by sec-  
18 tions 7(e) and 8(b) of this Act:

19               “(G) in the case of services furnished  
20               in connection with surgical procedures,  
21               specified pursuant to section 1833(i)(1),  
22               in an ambulatory surgical center, such  
23               services are or were medically required.”.



(d) Section 1861(u) of such Act is amended by inserting “ambulatory surgical center,” after “hospital.”

#### TECHNICAL RENAL DISEASE AMENDMENTS

SEC. 29. (a) Section 1881(c)(4) of the Social Security Act is amended by adding at the end the following sentence: “The Secretary may not find, for purposes of such certification, that the addition or expansion of a facility within a network is not needed if the State health planning and development agency, fully or conditionally designated under title XV of the Public Health Service Act for the State in which the facility is located, has certified under section 1523(a)(4)(B) of such Act that such addition or expansion is needed.”.

(b) Section 1881(e) of such Act is amended—

(1) by striking “and” the first time it appears in paragraph (1) and inserting a comma in lieu thereof;

(2) by inserting “and nonprofit entities which the Secretary finds can furnish equipment economically and efficiently,” after “renal dialysis facilities,” in paragraph (1);

(3) by striking out “such providers and facilities” and inserting in lieu thereof “such

1 providers, facilities, and nonprofit entities”;  
2 and

3 (4) by striking out “or facility will—” in  
4 paragraph (2) and inserting in lieu thereof “,  
5 facility, or other entity will—”.

6 (c) Section 1881(g) of such Act is amended by  
7 striking out “April” each time it appears and in-  
8 serting in lieu thereof “July”.

9 **PREADMISSION DIAGNOSTIC TESTING**

10 **SEC. 30.** (a) Section 1833(a)(1) of the Social  
11 Security Act is amended by striking out “and (E)”  
12 and inserting in lieu thereof “(E)”, and by insert-  
13 ing the following after “section 1881,” at the end  
14 of clause (E): “and (F) with respect to expenses  
15 incurred for preadmission diagnostic radiological  
16 or pathological services for which payment may  
17 be made under this part and which are furnished  
18 to an individual by the outpatient department of a  
19 hospital within seven days of such individual’s ad-  
20 mission to the same hospital as an inpatient or, to  
21 the extent practicable as determined by regula-  
22 tions prescribed by the Secretary, to another hos-  
23 pital by a physician in the field of radiology or pa-  
24 thology who has an agreement in effect with the  
25 Secretary by which the physician agrees to accept

1 an assignment (as provided for in section  
2 1842(b)(3)(B)(ii)) for all physicians' services fur-  
3 nished by him for such services to individuals en-  
4 rolled under this part, the amounts paid shall be  
5 equal to the reasonable charges for such  
6 services,".

7 (b) The Secretary of Health, Education, and  
8 Welfare shall report to the Congress no later than  
9 one year after the date of the enactment of this  
10 Act describing the policy which has been devel-  
11 oped and is being or will be implemented with re-  
12 spect to the amendments made by subsection (a)  
13 of this section and by section 17(b) of this Act as  
14 they concern expenses incurred for preadmission  
15 diagnostic testing furnished to an individual at a  
16 hospital within seven days of an individual's ad-  
17 mission to another hospital.

#### 18 STUDIES AND DEMONSTRATION PROJECTS

19 SEC. 31. (a) The Secretary of Health, Educa-  
20 tion, and Welfare (hereinafter in this section re-  
21 ferred to as the "Secretary") shall develop and  
22 carry out a demonstration project to determine (1)  
23 the extent to which the commencement of nutri-  
24 tional therapy in early renal failure, utilizing (but  
25 not limited to) controlled protein substances, can

1 retard or arrest the progression of the disease with  
2 a resultant substantive deferment of dialysis, and  
3 (2) the administrative, financial, and other aspects  
4 of making such nutritional therapy generally  
5 available as part of the benefits received under  
6 title XVIII of the Social Security Act.

7 (b) The Secretary shall submit to the Con-  
8 gress, within one year after the date of the enact-  
9 ment of this Act, a report on the demonstration  
10 projects being conducted by the Secretary with re-  
11 spect to waiving the applicable cost sharing  
12 amounts which beneficiaries under title XVIII of  
13 the Social Security Act have to pay for obtaining a  
14 second opinion on having surgery performed.  
15 Such report shall include any recommendations  
16 for legislative changes in such title which the Sec-  
17 retary finds desirable as a result of such demon-  
18 stration projects.

19 (c) The Secretary shall conduct a study of the  
20 circumstances and conditions under which serv-  
21 ices furnished by registered dietitians should be  
22 covered as a home health benefit under title XVIII  
23 of the Social Security Act.

24 (d) The Secretary shall develop and carry out  
25 demonstration projects to determine the adminis-



1 trative, financial, and other aspects of making the  
2 services of clinical social workers more generally  
3 available as part of the benefits received under  
4 title XVIII of the Social Security Act.

5 (e) The Secretary shall, in consultation with  
6 appropriate professional organizations, conduct a  
7 comprehensive study of methods for providing  
8 coverage under part B of title XVIII of the Social  
9 Security Act for orthopedic shoes for individuals  
10 with disabling or deforming conditions who re-  
11 quire special fitting considerations to help protect  
12 against increasing disability or serious medical  
13 complications or who require special shoes in con-  
14 junction with the use of an orthosis or foot sup-  
15 port. The Secretary shall submit to the Congress,  
16 no later than January 1, 1981, a report on the find-  
17 ings of this study and such specific legislative rec-  
18 ommendations as is appropriate with respect to  
19 the utilization, cost control, quality of care, and  
20 equitable and efficient administration of such an  
21 extension of coverage.

22 (f) The Secretary shall conduct a study of the  
23 circumstances and conditions under which serv-  
24 ices furnished with respect to respiratory therapy

1 should be covered as a home health benefit under  
2 title XVIII of the Social Security Act.

3 (g) The Secretary shall conduct a study in-  
4 volving a comprehensive analysis of the cost ef-  
5 fects of alternative approaches to improving cov-  
6 erage under title XVIII of the Social Security Act  
7 for the treatment of various types of foot  
8 conditions.

9 (h) The Secretary shall submit a report on  
10 each of the demonstration projects and studies de-  
11 scribed in subsections (a), (c), (d), (f), and (g).  
12 Each such report shall be submitted within  
13 twenty-four months of the date of the enactment  
14 of this Act and shall contain any recommenda-  
15 tions for legislative changes which the Secretary  
16 finds desirable as a result of conducting the dem-  
17 onstration project or study with respect to which  
18 the report is submitted.

19 (i) Grants, payments under contracts, and  
20 other expenditures made for studies and demon-  
21 stration projects under this section shall be made  
22 in appropriate part from the Federal Hospital In-  
23 surance Trust Fund (established by section 1817 of  
24 the Social Security Act) and the Federal Supple-  
25 mentary Medical Insurance Trust Fund (estab-

1 lished by section 1841 of the Social Security Act).  
2 Grants and payments under contracts may be  
3 made either in advance or by way of reimburse-  
4 ment, as may be determined by the Secretary, and  
5 shall be made in such installments and on such  
6 conditions as the Secretary finds necessary to  
7 carry out the purpose of this section. With respect  
8 to any such grant, payment, or other expenditure,  
9 the amount to be paid from each of such trust  
10 funds shall be determined by the Secretary, giving  
11 due regard to the purposes of the experiment or  
12 project involved.

13 PROVIDER REIMBURSEMENT REVIEW BOARD

14 SEC. 32. Section 1878(f)(1) of the Social Secu-  
15 rity Act is amended by inserting the following  
16 after the second sentence thereof: "Providers shall  
17 also have the right to obtain judicial review of any  
18 action of the fiscal intermediary which involves a  
19 question of law or regulations relevant to the mat-  
20 ters in controversy whenever the Board deter-  
21 mines (on its own motion or at the request of a  
22 provider of services as described in the following  
23 sentence) that it is without authority to decide the  
24 question, by a civil action commenced within sixty  
25 days of the date on which such determination is

1 rendered. If a provider of services may obtain a  
2 hearing under subsection (a) and has filed a re-  
3 quest for such a hearing, such provider may file a  
4 request for a determination by the Board of its au-  
5 thority to decide the question of law or regula-  
6 tions relevant to the matters in controversy (ac-  
7 companied by such documents and materials as  
8 the Board shall require for purposes of rendering  
9 such determination). The Board shall render such  
10 determination in writing within thirty days after  
11 the Board receives the request and such accompa-  
12 nyng documents and materials, and the determi-  
13 nation shall be considered a final decision and not  
14 subject to review by the Secretary. If the Board  
15 fails to render such determination within such  
16 period, the provider may bring a civil action  
17 (within sixty days of the end of such period) with  
18 respect to the matter in controversy contained in  
19 such request for a hearing.”.

20 ACCESS TO BOOKS AND RECORDS OF

21 SUBCONTRACTORS

22 SEC. 33. Section 1861(v)(1) of the Social Secu-  
23 rity Act is amended by adding the following new  
24 subparagraph after the subparagraph added by  
25 section 2(p) of this Act:



1       “(H) In determining such reasonable cost, the  
2 Secretary may not include any costs incurred by a  
3 provider with respect to any service furnished in  
4 connection with matters for which payment may  
5 be made under this title and furnished pursuant to  
6 a contract between the provider and any of its sub-  
7 contractors which is entered into after the date of  
8 enactment of this subparagraph and the value or  
9 cost of which is \$10,000 or more over a twelve-  
10 month period unless the contract contains a  
11 clause to the effect that until the expiration of  
12 three years after the furnishing of such services  
13 pursuant to such contract, the subcontractor shall  
14 make available, upon request, to the Secretary or  
15 the Comptroller General of the United States (or  
16 any of their duly authorized representatives) the  
17 contract, and books, documents, and records of  
18 such subcontractor that are necessary to verify  
19 the nature and extent of such costs.”.



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Union Calendar No. 416

96TH CONGRESS  
2D SESSION

**H. R. 3990**

[Report No. 96-588, Parts I, II, and III]

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## A BILL

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To amend certain provisions of title XVIII of the Social Security Act with respect to the medicare program established by such title, and for other purposes.

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MAY 8, 1979

Referred jointly to the Committees on Ways and Means and  
Interstate and Foreign Commerce

NOVEMBER 5, 1979

Reported with an amendment and ordered to be printed

MARCH 18, 1980

Reported with an amendment, committed to the Committee  
of the Whole House on the State of the Union, and or-  
dered to be printed